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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

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IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

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SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

[Prior to 7/1/83, see DEQ Chs 15 and 24]
[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—60.1(455B,17A) Scope of title. The department has jurisdiction over the surface water and groundwater of the state to prevent, abate and control water pollution by establishing standards for water quality and for direct or indirect discharges of wastewater to waters of the state and by regulating potential sources of water pollution through a system of general rules or specific permits. The construction and operation of any wastewater disposal system and the discharge of any pollutant to a water of the state require a specific permit from the department, unless exempted by the department.

This chapter provides general definitions applicable in this title and rules of practice, including forms, applicable to the public in the department's administration of the subject matter of this title.

Chapter 61 contains the water quality standards of the state, including classification of surface waters. Chapter 62 contains the standards or methods for establishing standards relevant to the discharge of pollutants to waters of the state. Chapter 63 identifies monitoring, analytical and reporting requirements pertaining to permits for the operation of wastewater disposal systems. Chapter 64 contains the standards and procedures for obtaining construction, operation and NPDES permits for wastewater disposal systems other than those associated with animal feeding operations. Chapter 65 specifies minimum waste control requirements and permit requirements for animal feeding operations. Chapter 66 specifies restrictions on pesticide application to waters. Chapter 67 contains standards for the land application of sewage sludge. Chapter 68 contains standards and licensing requirements applicable to commercial septic tank cleaners. Chapter 69 specifies guidelines for private sewage disposal systems.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—60.2(455B) Definitions. The following definitions apply to this title, unless otherwise specified in the particular chapter of this title:

"Act" means the Federal Water Pollution Control Act as amended through July 1, 2007, 33 U.S.C. §1251 et seq.

"Acute toxicity" means that level of pollutants which would rapidly induce a severe and unacceptable impact on organisms.

"Application for a construction permit" means the engineering report, plans and specifications and other data deemed necessary by the department for the construction of a proposed wastewater disposal system or part thereof.

"Application for an operation permit" means a written application for an operation or NPDES permit made on forms provided by the department.

"Approved pretreatment program" means a program administered by a publicly owned treatment works that meets the criteria established in 40 CFR Part 403 and which has been approved by the director.

"Aquatic pesticide" means any pesticide, as defined in Iowa Code section 206.2, that is labeled for application to surface water.

"ASTM" means "Annual Book of Standards, Part 31, Water." The publication is available from the American Society for Testing and Materials, 1916 Race St., Philadelphia, Pennsylvania 19103.

"Average dry weather flow" or *"ADW"* means the daily average flow when the groundwater is at or near normal and runoff is not occurring.

"Average wet weather flow" or *"AWW"* means the daily average flow for the wettest 30 consecutive days for mechanical plants or for the wettest 180 consecutive days for controlled discharge lagoons.

"Best management practice (BMP)" means a practice or combination of practices that is determined, after problem assessment, examination of alternative practices, and appropriate public participation, to be the most effective, practicable (including technological, economic and institutional

considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

"Biochemical oxygen demand (five-day)" means the amount of oxygen consumed in the biological processes that break down organic matter in water by aerobic biochemical action in five days at 20°C.

"Bypass" means the diversion of waste streams from any portion of a treatment facility or collection system. A bypass does not include internal operational waste stream diversions that are part of the design of the treatment facility, maintenance diversions where redundancy is provided, diversions of wastewater from one point in a collection system to another point in a collection system, or wastewater backups into buildings that are caused in the building lateral or private sewer line.

"Carbonaceous biochemical oxygen demand (five-day)" means the amount of oxygen consumed in the biological processes that break down carbonaceous organic matter in water by aerobic biochemical action in five days at 20°C.

"CFR" or *"Code of Federal Regulations"* means the federal administrative rules adopted by the United States in effect as of January 1, 2015. The amendment of the date contained in this definition shall constitute the amendment of all CFR references contained in 567—Chapters 60 to 69, Title IV, unless a date of adoption is set forth in a specific rule.

"Chronic toxicity" means that level of pollutants which would, over long durations or recurring exposure, cause a continuous, adverse or unacceptable response in organisms.

"Combined sewer overflow" means the discharge from a combined sewer system at a point prior to the treatment works.

"Combined sewer system" means a wastewater collection system owned by a municipality which conveys sanitary wastewater (domestic, commercial, and industrial) and storm water through a single pipe system to the treatment plant.

"Construction permit" means a written approval from the director to construct a wastewater disposal system or part thereof in accordance with the plans and specifications approved by the department.

"Continuing planning process (CPP)" means the continuing planning process, including any revision thereto, required by Sections 208 and 303(e) of the Act (33 U.S.C. §§1288 and 1313(e)) for state water pollution control agencies. The continuing planning process is a time-phased process by which the department, working cooperatively with designated areawide planning agencies:

a. Develops a water quality management decision-making process involving elected officials of state and local units of government and representatives of state and local executive departments that conduct activities related to water quality management.

b. Establishes an intergovernmental process (such as coordinated and cooperative programs with the state conservation commission in aquatic life and recreation matters, and the soil conservation division, department of agriculture and land stewardship in nonpoint pollution control matters) which provides for water quality management decisions to be made on an areawide or local basis and for the incorporation of such decisions into a comprehensive and cohesive statewide program. Through this process, state regulatory programs and activities will be incorporated into the areawide water quality management decision process.

c. Develops a broad-based public participation (such as utilization of such mechanisms as basin advisory committees composed of local elected officials, representatives of areawide planning agencies, the public at large, and conservancy district committees) aimed at both informing and involving the public in the water quality management program.

d. Prepares and implements water quality management plans, which identify water quality goals and established state water quality standards, defines specific programs, priorities and targets for preventing and controlling water pollution in individual approved planning areas and establishes policies which guide decision making over at least a 20-year span of time (in increments of 5 years).

e. Based on the results of the statewide (state and areawide) planning process, develops the state strategy to be updated annually, which sets the state's major objectives, approach, and priorities for preventing and controlling pollution over a five-year period.

f. Translates the state strategy into the annual state program plan (required under Section 106 of the federal Act), which establishes the program objectives, identifies the resources committed for the state

program each year, and provides a mechanism for reporting progress toward achievement of program objectives.

g. Periodically reviews and revises water quality standards as required under Section 303(c) of the federal Act.

"Crossover point" means that location in a river or stream in which the flow shifts from being principally along one bank to the opposite bank. This crossover point usually occurs within two curves or an S-shaped curve of a water course.

"Culture water" means reconstituted water or other acceptable water used for culturing test organisms.

"Deep well" means a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

"Diluted effluent sample" means a sample of effluent diluted with culture water at the same ratio as the dry weather design flow to the applicable receiving stream flow contained in the zone of initial dilution as allowed in 567—subrule 61.2(4), regulatory mixing zones, including paragraphs *"b,""c"* and *"d."*

"Dilution ratio" means, for a specific wastewater discharger, the ratio of the seven-day, ten-year low stream flow to the effluent design flow, e.g., a dilution ratio of 2:1 has two parts stream flow to one part effluent flow.

"Discharge of a pollutant" means any addition of any pollutant or combination of pollutants to navigable waters or waters of the state from any point source. "Discharge of a pollutant" includes additions of pollutants into navigable waters or waters of the state from surface runoff which is collected or channeled by human activity; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. "Discharge of a pollutant" does not include an addition of pollutants by any indirect discharger.

"Disposal system" means a system for disposing of sewage, industrial waste, or other wastes, or for the use or disposal of sewage sludge. "Disposal system" includes sewer systems, treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage sludge.

"Effluent toxicity test" means a test to determine the toxicity of a chemical or chemicals contained in a wastewater discharge on living organisms in a static 48-hour exposure under laboratory conditions.

"Excessive infiltration/inflow (I/I)" as referred to in the discussion of secondary treatment is the quantity of I/I which is more economical to remove from the sewer system than to transport and treat at a wastewater facility. Within the cost-effectiveness analysis performed to determine excessive I/I, the transportation and treatment costs will be based on the percent removal requirements specified in the appropriate subrule, 567—subrule 62.3(1) or 62.3(3).

"Fecal coliform" means the portion of the coliform group which is present in the gut or the feces of warm-blooded animals. It includes organisms which are capable of producing gas from lactose broth in a suitable culture medium within 24 hours at 44.5 + / - 0.2°C.

"FR" means the Federal Register, published daily by the Office of the Federal Register, National Archives and Record Service, General Services Administration, Washington, D.C. 20408 and distributed by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

"General permit" means an NPDES permit issued to a class of facilities which could be conditioned and described by a single permit.

"Human health criteria" means that level of pollution which, in the case of noncarcinogens, prevents adverse health effects in humans, and in the case of carcinogens, represents a level of incremental cancer risk of 1 in 100,000. The numerical criteria are based on the human consumption of an average of 6.5 grams of fish and shellfish per day by a 70-kilogram individual for a life span of 70 years.

"Indirect discharger" means a non-domestic discharger introducing pollutants to a publicly owned treatment works.

"Industrial waste" means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade, or business, or from the development of any natural resource.

"Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts a POTW, its treatment process or operations, or its sludge processes, use or disposal; and
2. Is a cause of a violation of any requirement of a POTW NPDES permit including an increase in the magnitude or duration of a violation or the prevention of sewage sludge use or disposal.

"Intermittent watercourses" means watercourses which contain flow associated with rainfall/runoff events and which periodically go dry even in pooled areas.

"Local public works department" means a city or county public works department, a board of trustees of a city utility organized pursuant to Iowa Code chapter 388, or a sanitary sewer district organized pursuant to Iowa Code chapter 358.

"Losing streams" means streams which lose 30 percent or more of their flow during the seven-day, ten-year low stream flow periods to cracks and crevices of rock formations, sand and gravel deposits, or sinkholes in the streambed.

"Low permeability" means a soil layer of well-sorted, fine grain-sized sediments or of rock that under normal hydrostatic pressures would not be significantly permeable. Low permeability soils may include homogeneous clays below the zone of weathering, mudstone, claystone, shale, and some glacial till.

"Major," for municipalities, means a facility having an average wet weather design flow of 1.0 million gallons per day (MGD) or greater. For industries "major" means a facility which is designated by EPA as being a major industry based on the EPA point rating system.

"Major permit amendment" or *"major modification"* means a permit modification that is not a minor permit amendment as defined in this rule.

"Maximum wet weather flow" or *"MWW"* means the total maximum flow received during any 24-hour period when the groundwater is high and runoff is occurring.

"Milligrams per liter (mg/l)" means milligrams of solute per liter of solution (equivalent to parts per million-assuming unit density). A microgram (ug) is 1/1000 of a milligram.

"Minimum flow" means that established stream flow in lieu of the seven-day, ten-year low stream flow to which the provisions of 567—Chapter 61 apply.

"Minor" means all remaining municipal and industrial facilities which have wastewater discharge flows and which are not designated as major facilities.

"Minor permit amendment" or *"minor modification"* means a permit modification made with the consent of the permittee that occurs as a result of any of the following:

1. Correction of a typographical error;
2. Modification of the monitoring and reporting requirements in the permit to include more frequent monitoring or reporting;
3. Revision of an interim date in a compliance schedule, provided that the new date is not more than 120 days after the date specified in the permit and does not interfere with the attainment of the final compliance date;
4. Change in facility name or ownership;
5. Deletion of a point source outfall that does not result in the discharge of pollutants from other outfalls; or
6. Incorporation of an approved local pretreatment program.

"Mixing zone" means a delineated portion of a stream or river in which wastewater discharges will be allowed to combine and disperse into the water body. The chronic criteria of 567—subrule 61.3(3) will apply at the boundary of this zone.

"Mortality" means, for the purpose of the 48-hour acute toxicity test, death, immobilization, or serious incapacitation of the test organisms.

"Navigable water" means a water of the United States as defined in 40 CFR Part 122.2.

"Nephelometric" means the nephelometric method of determining turbidity as stated in Standard Methods, pp. 132-134.

"New discharger" means any building, structure, facility, or installation:

1. From which there is or may be a "discharge of pollutants";
2. That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979;
3. Which is not a "new source"; and
4. Which has never received a finally effective NPDES permit for discharges at that "site."

This definition includes an "indirect discharger" which commences discharging into "waters of the United States" after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant that begins discharging at a "site" for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a "site" under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR 125.122(a)(1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a "new discharger" only for the duration of its discharge in an area of biological concern.

"New source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants to a navigable water, the construction of which commenced after the promulgation of standards of performance under Section 306 of the Act which are applicable to such source, provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located; the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors, such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph "1" but otherwise alters, replaces, or adds to existing process or production equipment.
3. Construction of a new source as defined pursuant to this rule has commenced if the owner or operator has:

- Begun, or caused to begin, as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment; or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in the operation of the new source within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

"Nonpoint source" means a source of pollutants that is not a point source.

"NPDES permit" means an operation permit, issued after the department has obtained approval of its National Pollutant Discharge Elimination System (NPDES) program from the administrator, that authorizes the discharge of any pollutant into a navigable water.

"Operation permit" means a written permit by the director authorizing the operation of a wastewater disposal system or part thereof or discharge source and, if applicable, the discharge of wastes from the disposal system or part thereof or discharge source to waters of the state. An NPDES permit will constitute the operation permit in cases where there is a discharge to a water of the United States and an NPDES permit is required by the Act.

"Other waste" means heat, garbage, municipal refuse, lime, sand, ashes, offal, oil, tar, chemicals, and all other wastes which are not sewage or industrial waste.

"Pass through" means a discharge which, alone or in conjunction with a discharge or discharges entering the treatment facility from other sources, exits a POTW or semipublic sewage disposal system in quantities or concentrations which cause a violation of any requirement of the treatment facility's NPDES permit including an increase in the magnitude or duration of a violation.

"Pathogen" means any microorganism or virus that can cause disease.

"Permit rationale" means a document that sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing a draft operation or NPDES permit.

"Pesticide" shall have the definition as stated in Iowa Code section 206.2.

"pH" means the hydrogen ion activity of a solution expressed as the logarithm of the reciprocal of the hydrogen ion activity in moles per liter at 25°C. pH is a measure of the relative acidity or alkalinity of the solution. The range extends from 0 to 14; 7 being neutral, 0 to 7 being acidic, and 7 to 14 being alkaline.

"Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural storm water discharges and return flows from irrigated agriculture.

"Pollutant" means sewage, industrial waste, or other waste.

"Population equivalent" means the calculated number of people who would contribute an equivalent amount of biochemical oxygen demand (BOD) per day as the system in question, assuming that each person contributes 0.167 pounds of five-day, 20 degrees Celsius, BOD per day.

"Positive toxicity test result" means a statistical significant difference of mortality rate between the control and the diluted effluent test.

"POTW" or *"publicly owned treatment works"* means any device or system used in the treatment of municipal sewage or industrial wastes of a liquid nature which is owned by a municipal corporation or other public body created by or under Iowa law and having jurisdiction over disposal of sewage, industrial wastes or other wastes, or a designated and approved management agency under Section 208 of the Act.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes, or by other means, except as prohibited in 40 CFR 403.6(d).

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

"Pretreatment standard" or *"national pretreatment standard"* means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. "Pretreatment standard" includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

"Primary contact" means any recreational or other water use in which there is direct human contact with the water involving considerable risk of ingestion of water or contact with sensitive body organs such as the eyes, ears and nose, in quantities sufficient to pose a significant health hazard.

"Private sewage disposal system" means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on

a continuing basis. This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.

"Qualified volunteer" means a person or group of people acting on their own behalf, and not for a government agency or under contract with the department, to produce water quality monitoring data in accordance with a department-approved volunteer monitoring plan. Qualified volunteers must have the training and experience to ensure quality assurance and quality control for the data being produced, or be under the direct supervision of a person having such qualifications. A person or persons identified as participants in a department-approved volunteer monitoring plan will be considered qualified volunteers.

"Records of operation" means department of natural resources report forms or such other report forms, letters or documents which may be acceptable to the department that are designed to indicate specific physical, chemical, or biological values for wastewater during a stated period of time.

"Regional administrator" means the regional administrator of the United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101.

"Secondary contact" means any recreational or other water use in which contact with the water is either incidental or accidental and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing, commercial and recreational boating and any limited contact incidental to shoreline activity. This would include users who do not swim or float in the water body while on a boating activity.

"Semipublic sewage disposal system" means a system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288).

"Seven-day average" means the arithmetic mean of pollutant parameter values for samples collected in a period of seven consecutive days.

"Seven-day, ten-year low stream flow" means the lowest average stream flow which would statistically occur for seven consecutive days once every ten years.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.

"Sewage" means the water-carried waste products from residences, public buildings, institutions, or other buildings, including the bodily discharges from human beings or animals together with such groundwater infiltration and surface water as may be present.

"Sewage from vessels" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under Section 312 of the Act.

"Shallow well" means a well located and constructed in such manner that there is not a continuous 5-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.

"Significant industrial user" means an industrial user of a POTW that meets any one of the following conditions:

1. Discharges an average of 25,000 gallons per day or more of process wastewater excluding sanitary, noncontact cooling and boiler blowdown wastewater;
2. Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW;
3. Is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or
4. Is designated by the department as a significant industrial user on the basis that the contributing industry, either singly or in combination with other contributing industries, has a reasonable potential for adversely affecting the operation of or effluent quality from the POTW or for violating any pretreatment standards or requirements.

Upon a finding that an industrial user meeting the criteria in paragraph "1" or "2" of this definition has no reasonable potential for adversely affecting the operation of the POTW or for violating any pretreatment standard or requirement, the department may, at any time on its own initiative or in response to a request received from an industrial user or POTW, determine that an industrial user is not a significant industrial user.

"Significantly more stringent limitation" relates to secondary treatment $CBOD_5$ and SS limitations necessary to meet the percent removal requirements of at least 5 mg/l more stringent than the otherwise applicable concentration-based limitations (i.e., less than 20 mg/l in the case of $CBOD_5$), or the percent removal limitations in 567—subrules 62.3(1) and 62.3(3), if such limits would, by themselves, force significant construction or other significant capital expenditure.

"Sinkhole" means any depression caused by the dissolution or collapse of subterranean materials in a carbonate formation or in gypsum or rock salt deposits through which water may be drained or lost to the local groundwater system. Such depressions may or may not be open to the surface at times. Intermittently, sinkholes may hold water forming a pond.

"Small municipal separate storm sewer system" means all separate storm sewer systems that are owned or operated by the United States, the state of Iowa or a city, town, county, district, association or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges to waters of the United States or of the state of Iowa, and that have a population of less than 100,000 as determined by the 1990 census. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas such as individual buildings.

"Storm water" means storm water runoff, snow melt runoff and surface runoff and drainage. (NOTE: Agricultural storm water runoff is excluded by federal regulation 40 CFR 122.3(e).)

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR Part 122. For the categories of industries identified in paragraphs "1" to "10" of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

For the categories of industries identified in paragraphs "1" to "9" and "11," the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the: storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. To qualify for this exclusion, a storm-resistant shelter is not required for: drums, barrels, tanks and similar containers that are tightly sealed with bands or otherwise secured and have no taps or valves, are not deteriorated and do not leak; adequately maintained vehicles used in material handling; and final products other than products that would be mobilized in storm water discharge. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial

facilities that are federally, state, or municipally owned or operated) that meet the description of the facilities listed in paragraphs "1" to "11" of this definition include those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this definition:

1. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under paragraph "11" of this definition);

2. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

3. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations meeting the definition of a reclamation area under 40 CFR 434.11(1)) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable state or federal reclamation requirements after December 17, 1990, and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with, or that has come into contact with, any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

4. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

5. Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this definition) including those that are subject to regulation under Subtitle D of RCRA;

6. Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including, but not limited to, those classified as Standard Industrial Classifications 5015 and 5093;

7. Steam electric power generating facilities, including coal handling sites;

8. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-4225), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs "1" to "7" or "9" or "11" of this definition are associated with industrial activity;

9. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farmlands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR Part 503;

10. Construction activity including clearing, grading and excavation activities except operations that result in the disturbance of less than 5 acres of total land area which is not part of a larger common plan of development or sale. Effective March 10, 2003, construction activity including clearing, grading and excavation activities except operations that result in the disturbance of less than 1 acre of total land area which is not part of a larger common plan of development or sale;

11. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-4225 (and which are not otherwise included within paragraphs "2" to "10").

"Storm water discharge associated with small construction activity" means the discharge of storm water from:

1. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than 1 acre and less than 5 acres. Small construction activity also includes the disturbance of less than 1 acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb an area equal to or greater than 1 acre and less than 5 acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

2. Any other construction activity designated by the director based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

"Storm water point sources" means point sources that serve to collect, channel, direct, and convey storm water and which are subject to Section 402(p) of the federal Clean Water Act and 40 CFR Parts 122, 123, and 124.

"Temperature" means a measure of the heat content of water.

"Thirty-day average" means the arithmetic mean of pollutant parameter values of samples collected in a period of 30 consecutive days.

"Toxicity reduction evaluation (TRE) program" means a step-wise process, similar to that found in EPA Document/600/2-88/062, which combines effluent toxicity tests and analysis of the chemical characteristics of the effluent to determine the cause of the effluent toxicity or the treatment methods which will reduce the effluent toxicity, or both.

"Turbidity" is a measure of the optical property of the particles of mud, clay, silt, finely divided organic matter, or microscopic organisms suspended in water that interfere with light transmission, causing the light to be scattered and absorbed rather than transmitted through the water in straight lines.

"Uncontrolled sanitary landfill" means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runon or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act.

"Valid effluent toxicity test" means the mortality in the control test is not greater than 10 percent and all test conditions contained in 567—subrule 63.4(2)*"b"* "Standard Operating Procedure: Effluent Toxicity Testing, Iowa Department of Natural Resources" are met.

"Water contact recreational canoeing" means the type of activities associated with canoeing outings in which primary contact with the water does occur. This would include users who swim or float in the water body while on a canoeing outing.

"Water of the state" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

"Zone of initial dilution" means a delineated portion of a mixing zone in which wastewater discharges will be allowed to rapidly combine and begin dispersing into the water body. The acute criteria of 567—subrule 61.3(3) will apply at the boundary of this zone.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09 (See Delay note at end of chapter); **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—60.3(455B,17A) Forms. The following forms shall be used to apply for departmental approvals and to report on activities related to the wastewater programs of the department. Electronic forms may be obtained from the appropriate regional field office. Paper forms may be obtained from the Web site of the department or by contacting the appropriate regional field office. Properly completed application forms and all attachments shall be submitted in accordance with the instructions. Reporting forms shall be submitted to the appropriate field office.

60.3(1) *Construction permit application forms.*

a. Schedules 28 — "A" to "S"

"A" — General Information 542-3129

"B" — Collection System 542-3095

"C" — Lateral Sewer System 542-3096
"D" — Trunk and Interceptor Sewer 542-3097
"E" — Pump Station 542-3098
"F" — Treatment Project Site Selection 542-3099
"G" — Treatment Project Design Data 542-3106
"H1" — Schematic Flow Diagram 542-3101
"H2" — Treatment Process Removal Efficiency 542-3102
"H3" — Mechanical Plant Reliability 542-3239
"I" — Screening, Grit Removal and Flow Measurement 542-3089
"J" — Septic Tank System 542-3090
"K1" — Controlled Discharge Pond 542-3091
"K2" — Aerated Pond 542-3092
"K3" — Anaerobic Lagoon 542-3093
"L" — Settling Tanks 542-3094
"M" — Fixed Film Reactor—Stationary Media 542-3081
"N" — Rotating Biological Contactor 542-3082
"O" — Aeration Tanks or Basins 542-3083
"P" — Gas Chlorination 542-3084
"Q" — Sludge Dewatering and Disposal 542-3085
"R1" — Sludge Dewatering and Disposal 542-3086
"R2A" — Low Rate Land Application of Sludge (Part I) 542-3087
"R2B" — Low Rate Land Application of Sludge (Part II) 542-3088
"S" — Land Application of Wastewater (To be developed)

b. Form 29 — Sewage Treatment Agreement 542-3219

60.3(2) *Operation and NPDES permit application forms.*

a. Form 30 — public or private domestic sewer systems (municipal and semipublic facilities) 542-3220.

(1) Part A — basic information for all applicants.
(2) Part B — expanded effluent testing data.
(3) Part C — toxicity testing data.
(4) Part D — industrial user discharges and RCRA/CERCLA wastes.
(5) Part E — combined sewer systems.
(6) Part F — certification.

b. Form 31 — treatment agreement 542-3221.

c. Form 34 — open feedlots 542-4001.

d. Form 1 — general information for industrial, manufacturing or commercial systems 542-1376.

e. Form 2 — facilities which do not discharge process wastewater—industrial, manufacturing or commercial systems 542-1377.

f. Form 3 — facilities which discharge process wastewater existing sources—industrial, manufacturing, and commercial systems 542-1378.

g. Form 4 — facilities which discharge process wastewater—new sources—industrial, manufacturing or commercial systems 542-1379.

h. EPA Form 2F — application for NPDES individual permit to discharge storm water discharge associated with industrial activity 542-1380.

i. Form 5 — Certification for Industrial Facilities and Operation Permits 542-1382.

j. Form 6 — Operation Permit Application 542-1390.

k. NPDES Permit Application Supplement 542-1383.

l. Notice of Intent for Coverage Under Storm Water NPDES General Permit No. 1 "Storm Water Discharge Associated with Industrial Activity" or General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities" or General Permit No. 3 "Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities" 542-1415.

m. Notice of Intent for Coverage Under NPDES General Permit No. 4 "Discharge from Private Sewage Treatment and Disposal Systems" 542-1541.

n. Notice of Intent for Coverage Under NPDES General Permit No. 5 "Discharge from Mining and Processing Facilities" 542-4006.

o. Notice of Discontinuation From Coverage Under General Permit No. 5 542-8038.

p. Information Required to Accompany Application for the Municipal Separate Storm Sewer System (MS4) Permit 542-8039.

q. NPDES Application Fee Invoice for Open Feedlots and Designated Confinement Feeding Operations 542-1240.

r. NPDES Application Fee Invoice 542-1251.

s. NPDES Application Fee Invoice for a New Discharger 542-1253.

t. Storm Water Discharge — NPDES General Permit #1 Notice of Discontinuation 542-8814.

u. Storm Water Discharge — NPDES General Permit #2 Notice of Discontinuation 542-8815.

v. Storm Water Discharge — NPDES General Permit #3 Notice of Discontinuation 542-8816.

w. Public Notice of Storm Water Discharge 542-8117.

x. Notice of Intent for Coverage Under NPDES General Permit No. 7, "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides."

y. Notice of Discontinuation From Coverage Under General Permit No. 7.

60.3(3) *Wastewater records of operation and other report forms.*

a. Individual operation and NPDES permit, discharge monitoring report forms as given to the permittee by the department.

b. General Permit No. 5, "Discharge from Mining and Processing Facilities," Annual Monitoring Report 542-8035.

c. General Permit No. 6, "Iowa DNR Water Well Construction and Services Wastewater Discharge Field Office Notification Form," 542-0018.

d. General Permit No. 7, "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides," Annual Monitoring Report.

e. "Acute Whole Effluent Toxicity Testing Report Form," 542-1381.

f. Other forms as provided by the department, including electronic forms.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—60.4(455B,17A) Application procedures and requirements generally. The following procedures and requirements pertain to applications for wastewater permits. More specific and substantive requirements may be found in 567—Chapters 61 to 65.

60.4(1) *Construction permit applications.*

a. General. All applications for a construction permit pursuant to 567—64.2(455B) shall be made in accordance with the instructions for completion of application for wastewater construction permit. The instructions specify the requirements for federal grant and nongrant projects. In addition to the required engineering documents and data the appropriate application schedules (Form 28, "A" to "S") and Sewage Treatment Agreement Form 29 as applicable shall be submitted. The applicant will be promptly notified if the application is incomplete or improperly filled out, and an application will not be reviewed until such time as a complete and proper submission is made. A wastewater construction permit will be denied when the application does not meet all requirements for issuance of a construction permit. For a system with permits conditioned by limitations on additional loads under 567—subrule 64.2(10), paragraphs *"a," "b"* or *"f,"* subsequent construction permit applications must be accompanied by an accounting of connections and additional loading since the time the initial conditioned permit was issued.

b. Sewer systems. If Schedule B, "Collection System," of the construction permit application does not provide sufficient information on which to make a determination to grant or deny a sewer system construction permit under this subrule, additional information, such as the following, may be requested and evaluated:

(1) Sources of extraneous flows,

(2) Population trends and density in area to be served,
(3) Quality and strength of wastes from industrial contributors,
(4) Existing water used data,
(5) Historical and experience data,
(6) Location, capacity, and condition of existing sewer system and stormwater drainage courses,
(7) Probability of annexation or development of adjacent areas,
(8) Service agreements with adjacent communities,
(9) Existence and effectiveness of industrial waste ordinance,
(10) Drainage area limits,
(11) Bypasses and combined sewers,
(12) Municipal sewer map.

c. Site surveys. For new or expanded wastewater treatment facilities, an application for a site survey must be submitted, by the applicant's engineer, generally in advance of a full application for construction permit. The applicant should allow 60 days from the date of application for preliminary approvals. The following minimum information must be submitted:

(1) A preliminary engineering report or a cover letter which contains a brief description of the proposed treatment process and assurance that the project is in conformance with the long-range planning of the area.
(2) Completed Schedule A — General Information
(3) Completed Schedule F — Treatment Project Site Selection
(4) Completed Schedule G — Treatment Project Design Data

If the application is incomplete it will be returned to the engineer for completion. When the application is complete it will be reviewed and if the data submitted indicates on its face that the site would be unsuitable for its intended purpose, a letter of rejection will be sent to the applicant and the engineer. Clarifications and additional data may be requested of the applicant and the engineer. When the application is complete and indicates on its face that the site may be suitable, a site survey will be conducted by department staff.

d. Modification. Persons seeking a modification to plans and specifications after having been issued a construction permit shall submit an addendum to plans and specifications, a change order, or revised plans and specifications, along with the reasons for the proposed changes, to the department. A supplemental written permit or approval will be issued when the changes submitted by the applicant meet department requirements. Construction shall not proceed until such changes have been approved.

e. Fees. Required fees shall be submitted with all applications for a construction permit as noted in 567—64.16(455B).

60.4(2) *Operation and NPDES permit applications.*

a. General. A person required to obtain or renew a wastewater operation permit or an Iowa NPDES permit pursuant to 567—Chapter 64, 567—Chapter 65, or 567—Chapter 69 must complete the appropriate application form as identified in subrule 60.3(2).

(1) Complete applications. A permit application is complete and approvable when all necessary questions on the application forms have been completed and the application is signed pursuant to 567—subrule 64.3(8), and when all applicable portions of the application, including the application fee and required attachments, have been submitted. The director may require the submission of additional information deemed necessary to evaluate the application. The due date for a renewal application is 180 days prior to the expiration date of the current permit, as noted in 567—64.8(455B). For a POTW, permission to submit an application at a later date may be granted by the director. The due date for a new application is 180 days prior to the date the operation is scheduled to begin, unless a shorter period is approved by the director.

(2) Incomplete applications. Incomplete applications may be returned to the applicant for completion. Authorization to discharge will be suspended if a complete application is not submitted to the department before the expiration date of the current permit. In the case of new applications, no discharge will be allowed until an NPDES or operation permit is issued. In the case of existing discharges, if a permit application is incomplete or has not been submitted, the department shall notify

the permittee of a violation of this rule and may proceed administratively on the violation or may request that the commission refer the matter to the attorney general for legal action.

(3) Other information. If a permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, the permittee shall promptly submit such facts or information.

b. Amendments. A permittee seeking an amendment to its operation permit shall make a written request in the form of a detailed letter to the department which shall include the nature of and the reasons supporting the requested amendment. A variance or amendment to the terms and conditions of a general permit shall not be granted. If a variance or amendment to a general permit is desired, the applicant must apply for an individual permit following the procedures in 567—paragraph 64.3(4)*"a."*

(1) Schedules of compliance. Requests to amend a permit schedule of compliance shall be made at least 30 days prior to the next scheduled compliance date which the permittee contends it is unable to meet. The request shall include any proposed changes in the existing schedule of compliance, and any supporting documentation for the time extension. An extension may be granted by the department for cause. Cause may include unusually adverse weather conditions, equipment shortages, labor strikes, federal grant regulation requirements, or any other extenuating circumstances beyond the control of the requesting party. Cause does not include economic hardship, profit reduction, or failure to proceed in a timely manner.

(2) Interim effluent limitations. A request to amend interim effluent limitations in an existing permit shall include the proposed amendments to existing effluent limitations and any documentation in support of the proposed limitations. The department will evaluate the request based upon the capability of the disposal system to meet interim effluent limitations, taking into account the contributions to treatment capability which can be made by good operation and maintenance of the disposal system and by minor alterations which can be made to the system to improve its capability. The department may deny a request where the inability of the disposal system to meet interim effluent limitations is due to increased waste loadings on the system over those loadings upon which the interim limitations were based.

(3) Monitoring requirements. An amendment request for a change in the minimum monitoring requirements in an existing permit is considered a variance request. A request for a variance shall include a letter and the Petition for Waiver or Variance form (542-1258). This form can be obtained from the NPDES section as noted in 60.3(455B). The requesting permittee must provide monitoring results which are frequent enough to reflect variations in actual wastewater characteristics over a period of time and are consistent in results from sample to sample. The department will evaluate the request based upon whether or not less frequent sample results accurately reflect actual wastewater characteristics and whether operational control can be maintained.

Upon receipt of a request, the department may grant, modify, or deny the request. If the request is denied, the department may notify the permittee of any violation of its permit and may proceed administratively on the violation or may request that the commission refer the matter to the attorney general for legal action.

c. Fees. Required fees shall be submitted with all permit applications as noted in 567—64.16(455B).

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

These rules are intended to implement Iowa Code section 17A.3(1)*"b"* and chapter 455B, division III, part 1.

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[1] April 15, 2009, effective date of Item 2 of ARC 7625B delayed 70 days by the Administrative Rules Review Committee at its meeting held April 8, 2009; at its meeting held April 28, 2009, the Committee voted to lift the delay, effective April 29, 2009.

CHAPTER 62
EFFLUENT AND PRETREATMENT STANDARDS: OTHER EFFLUENT LIMITATIONS OR PROHIBITIONS

[Prior to 7/1/83, DEQ Ch 17]
[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—62.1(455B) Prohibited discharges.

62.1(1) The discharge of any pollutant from a point source into a navigable water is prohibited unless authorized by an NPDES permit. For purposes of this subrule, an NPDES permit includes an NPDES permit issued by the administrator prior to approval of the Iowa NPDES program.

62.1(2) The discharge of any radiological, chemical or biological warfare agent or high-level radioactive waste into navigable waters is prohibited.

62.1(3) Any discharge which the secretary of the army acting through the chief of engineers finds would substantially impair anchorage and navigation is prohibited.

62.1(4) Any discharge to which the regional administrator has objected in writing pursuant to any right to object provided the administrator in Section 402(d) of the Act is prohibited.

62.1(5) Any discharge from a point source which is in conflict with a plan or amendment thereto approved pursuant to Section 208(b) of the Act is prohibited.

62.1(6) The discharge of wastewater into a publicly owned treatment works or a semipublic sewage disposal system in volumes or quantities in excess of those to which a significant industrial user is committed in the treatment agreement described in 567—subrule 64.3(5) or a local control mechanism in the case of a POTW with a pretreatment program approved by the department is prohibited.

62.1(7) Wastes in such volumes or quantities as to exceed the design capacity of the treatment works, cause interference or pass through, or reduce the effluent quality below that specified in the operation permit of the treatment works are considered to be a waste which interferes with the operation or performance of a publicly owned treatment works or a semipublic sewage disposal system and are prohibited.

62.1(8) Discharge of the following pollutants to a publicly owned treatment works, a semipublic sewage disposal system, or a private sewage disposal system is prohibited:

a. Pollutants which create a fire or explosion hazard including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21;

b. Solid or viscous substances in amounts that will cause obstruction to the flow in the treatment works resulting in interference;

c. Heat in amounts which will inhibit biological activity in the treatment works resulting in interference but, in no case, heat in such quantities that the temperature of the waste stream at the treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless specifically approved by the department;

d. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

e. Pollutants which result in the presence of toxic gases, vapors, or fumes within the treatment works in a quantity that could cause acute worker health and safety problems; and

f. Pollutants which will cause corrosive structural damage to the treatment works but, in no case, discharges with a pH lower than 5.0 standard units, unless the treatment works is specifically designed to accommodate such discharges, or wastes which would intermittently change the pH of the raw waste entering the treatment plant by more than 0.5 standard pH units or which would cause the pH of the raw waste entering the treatment plant to be less than 6.0 or greater than 9.0 standard units.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—62.2(455B) Exemption of adoption of certain federal rules from public participation. Iowa Code section 17A.4(2) allows an agency to exempt a "very narrowly tailored category of rules" from the notice and public participation requirements of Iowa Code section 17A.4(1) if the agency for good cause finds that notice and public participation is "unnecessary." The commission finds good cause

for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of the following federal standards and guidelines and amendments thereto: An effluent limitation guideline promulgated pursuant to Sections 301 and 304 of the Act; a standard of performance for a new source promulgated pursuant to Section 306 of the Act; a toxic effluent standard promulgated pursuant to Section 307(a) of the Act; a pretreatment standard for an existing source promulgated pursuant to Section 307(b) of the Act; a pretreatment standard for a new source promulgated pursuant to Section 307(c) of the Act; and information on the level of effluent quality attainable through the application of secondary treatment promulgated pursuant to Section 304(d) of the Act.

Public participation would be unnecessary since the commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have the department's NPDES program approved by the administrator (Section 402(c) of the Act), and yet must not adopt an effluent or pretreatment standard that is more stringent than the enumerated promulgated federal standards (Iowa Code section 455B.173(3)). Any such rule adopted by reference would be effective 35 days after filing, indexing, and publication in the Iowa Administrative Code.

567—62.3(455B) Secondary treatment information: effluent standards for publicly owned treatment works and semipublic sewage disposal systems.

62.3(1) *General.* The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of the pollutant measurements carbonaceous biochemical oxygen demand ($CBOD_5$), the five-day measure of the pollutant parameter carbonaceous biochemical oxygen demand; suspended solids (SS), the pollutant parameter total suspended solids; and pH, the measure of the relative acidity or alkalinity. The pollutant measurement carbonaceous biochemical oxygen demand is used in lieu of the pollutant measurement five-day biochemical oxygen demand (BOD_5), as noted in 40 CFR 133.102. All requirements for each pollutant measurement shall be achieved by publicly owned treatment works and semipublic sewage disposal systems except as provided for in subrules 62.3(2) and 62.3(3).

Effluent limitations on pollutants other than carbonaceous biochemical oxygen demand (five day), suspended solids and pH may be imposed in the NPDES permit. Such limitations will reflect pretreatment requirements that may be imposed on users of the treatment works.

a. Carbonaceous biochemical oxygen demand (5 day) — $CBOD_5$.

(1) The 30-day average shall not exceed 25 mg/l.

(2) The 7-day average shall not exceed 40 mg/l.

(3) The 30-day average percent removal shall not be less than 85 percent, and the percent removal shall be calculated by adding 5 units to the effluent $CBOD_5$ monitoring data and comparing that value to the influent BOD_5 monitoring data. Site-specific information on the relationship between BOD_5 and $CBOD_5$ shall be used in lieu of the 5-unit relationship if such information is available.

b. Suspended solids — SS.

(1) The 30-day average shall not exceed 30 mg/l.

(2) The 7-day average shall not exceed 45 mg/l.

(3) The 30-day average percent removal shall not be less than 85 percent.

c. pH: The effluent values for pH shall be maintained within the limits of 6.0 to 9.0 unless the publicly owned treatment works demonstrates that:

(1) Inorganic chemicals are not added to the waste stream as part of the treatment process, and

(2) Contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0.

62.3(2) *Special considerations.*

a. Combined sewers. Treatment works subject to this part may not be capable of meeting the percentage removal requirements established under 62.3(1)*"a"*(3) and 62.3(1)*"b"*(3), or 62.3(3)*"f"*(3) and 62.3(3)*"g"*(3) during wet weather where the treatment works receive flows from combined sewers (i.e., sewers which are designed to transport both storm water and sanitary sewage). For such treatment

works, the decision must be made on a case-by-case basis as to whether any attainable percentage removal level can be defined, and if so, what the level should be.

b. Industrial wastes. For certain industrial categories, the discharge of $CBOD_5$ and SS permitted (under Section 301(b)(1)(A)(i), 301(b)(2)(E) or 306 of the Act) may be less stringent than the values given in 62.3(1)*"a"*(1), 62.3(1)*"b"*(1), 62.3(3)*"f"*(1), and 62.3(3)*"g"*(1). In cases when wastes would be introduced from such an industrial category into a publicly owned treatment works, the values for $CBOD_5$ and SS in 62.3(1)*"a"*(1), 62.3(1)*"b"*(1), 62.3(3)*"f"*(1), and 62.3(3)*"g"*(1) may be adjusted upwards provided that:

(1) The permitted discharge of such pollutants, attributable to the industrial category, would not be greater than that which would be permitted (under Sections 301(b)(1)(A)(i), 301(b)(2)(E) or 306 of the Act) if such industrial category were to discharge directly into waters of the state, and

(2) The flow or loading of such pollutants introduced by the industrial category exceeds 10 percent of the design flow or loading of the publicly owned treatment works.

When such an adjustment is made, the values for $CBOD_5$ or SS in 62.3(1)*"a"*(2), 62.3(1)*"b"*(2), 62.3(3)*"f"*(2), and 62.3(3)*"g"*(2) should be adjusted proportionately.

c. Waste stabilization ponds. Departmental secondary treatment standards for waste stabilization ponds are the same as those found in subrule 62.3(1) concerning secondary treatment with the exception of the standards for suspended solids which are as follows:

(1) SS, the 30-day average shall not exceed 80 mg/l.

(2) SS, the 7-day average shall not exceed 120 mg/l.

d. Less concentrated influent wastewater for separate sewers. The department may substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements in 62.3(1) and 62.3(3) provided that the permittee demonstrates that:

(1) The treatment works is consistently meeting or will consistently meet, its permit effluent concentration limits but its percent removal requirements cannot be met due to less concentrated influent wastewater.

(2) To meet the percent removal requirements, the treatment works would have to achieve significantly more stringent limitations than would otherwise be required by the concentration-based standards, and

(3) The less concentrated influent wastewater is not the result of excessive infiltration/inflow (I/I). A system is considered to have nonexcessive I/I when an average wet weather influent flow (as defined in the department's design standards 567—paragraph 64.2(9)*"b,"* Chapter 14.4.5.1.b) comprised of domestic wastewater plus infiltration plus inflow equals less than 275 gallons per day per capita.

e. Upgraded facilities designed to operate in a split flow mode. The department may substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements in 62.3(1) only (not 62.3(3)),provided that the treatment works is designed to split part of the primary treated wastewater flow around the secondary treatment unit(s). The design to accommodate split flow must be approved by the department and consistent with applicable design standards for wastewater treatment facilities. The requirements of 62.3(2)*"d"* would apply to facilities considered under this subrule. This subrule shall not be considered for facilities eligible for treatment equivalent to secondary treatment under 62.3(3).

Any applicant requesting a permit limit adjustment must include as part of the request an analysis of the I/I sources in the system and a plan for the elimination of all inflow sources such as roof drains, manholes and storm sewer interconnections. Infiltration sources that can be economically eliminated or minimized shall be corrected.

f. Dilution. Nothing in this subrule or any other rule of the department shall be construed to encourage dilution of sewage as a means of complying with secondary treatment effluent standards. Reasonable efforts to prevent and abate infiltration of groundwater into sewers, and prevention or removal of any significant source of inflow, are required of all persons responsible for facilities subject to these standards.

62.3(3) *Treatment equivalent to secondary treatment.* This subrule describes the minimum level of effluent quality attainable by facilities eligible for treatment equivalent to secondary treatment in terms

of the pollutant measurements $CBOD_5$, SS and pH. The pollutant measurement $CBOD_5$ is used in lieu of the pollutant measurement BOD_5 as noted in 40 CFR 133.105. Treatment works shall be eligible at any time for consideration of effluent limitations described for treatment equivalent to secondary treatment if:

a. The $CBOD_5$ and SS effluent concentrations consistently achievable through proper operation and maintenance of the treatment works exceed the minimum level of the effluent quality set forth in 62.3(1)*"a"* and 62.3(1)*"b"*; and

b. A trickling filter or waste stabilization pond is used as the principal process; and

c. The treatment works provide significant biological treatment of municipal wastewater; and

d. The facility was not constructed since January 1, 1972, in order to achieve design effluent limits set forth in 62.3(1)*"a," "b,"* and *"c"* or predecessor rules on secondary treatment. An eligible trickling filter or waste stabilization pond may have undergone an upgrade to achieve the effluent requirements specified in this subrule. Nothing in this subrule shall be construed to allow a facility to circumvent the design standards of 567—Chapter 64 in the replacement or construction of the individual treatment units; and

e. The treatment works is one that does not receive organic or hydraulic loadings which prevent the facilities from consistently complying with 62.3(3)*"f," "g,"* and *"h."*

All requirements for the specified pollutant measurements in paragraphs *"f," "g,"* and *"h"* following in this subrule shall be achieved except as provided for above in 62.3(2) or paragraph *"i"* of this subrule below.

f. $CBOD_5$ limitations:

(1) The 30-day average shall not exceed 40 mg/l.

(2) The 7-day average shall not exceed 60 mg/l.

(3) The 30-day average percent removal shall not be less than 65 percent, and the percent removal shall be calculated by adding 5 units to the effluent $CBOD_5$ monitoring data and comparing that value to the influent BOD_5 monitoring data. Site-specific information on the relationship between BOD_5 and $CBOD_5$ shall be used in lieu of the 5-unit relationship if such information is available.

g. SS limitations. Except where SS values have been adjusted in accordance with subrule 62.3(2), paragraph *"c,"* above:

(1) The 30-day average shall not exceed 45 mg/l.

(2) The 7-day average shall not exceed 65 mg/l.

(3) The 30-day average percent removal shall not be less than 65 percent.

h. pH. The requirements of above subrule 62.3(1), paragraph *"c,"* shall be met.

i. Permit adjustments. More stringent limitations are required if the 30-day average and 7-day average $CBOD_5$ and SS effluent values that could be achievable through proper operation and maintenance of the upgraded or existing treatment works, based on an analysis of the past performance of the treatment works, would enable the treatment works to achieve more stringent limitations. These more stringent limitations shall be maintained and not relaxed unless as specified in subrule 62.3(2)*"b."*

Effluent concentrations consistently achievable through proper operation and maintenance are:

(1) The ninety-fifth percentile value of the 30-day average effluent quality achieved by the upgraded or existing treatment works in a period of at least two years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions, and

(2) A 7-day average value equal to 1.5 times the value derived for the 30-day average above.

This subrule shall only be applied when the existing or upgraded facility has achieved its design organic loading as specified in the most recent construction permit or its accompanying documentation. The determination of the effluent concentration consistently achievable through proper operation and maintenance shall only be based on the effluent quality data following the period when the design organic loading has been achieved.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 Code of Federal Regulations (CFR), revised as of January 1, 2015, are applicable to the following categories:

62.4(1) *General provisions.* The following is adopted by reference: 40 CFR Part 401.

62.4(2) *Cooling water intake structures.* The following is adopted by reference: 40 CFR Part 125, Subparts I and J.

62.4(3) *General pretreatment regulations for existing and new sources of pollution.* The following is adopted by reference: 40 CFR Part 403.

62.4(4) *Thermal discharges.* The following is adopted by reference: 40 CFR Part 125, Subpart H.

62.4(5) *Dairy products processing point source category.* The following is adopted by reference: 40 CFR Part 405.

62.4(6) *Grain mills point source category.* The following is adopted by reference: 40 CFR Part 406.

62.4(7) *Canned and preserved fruits and vegetables processing point source category.* The following is adopted by reference: 40 CFR Part 407.

62.4(8) *Canned and preserved seafood processing point source category.* The following is adopted by reference: 40 CFR Part 408.

62.4(9) *Sugar processing point source category.* The following is adopted by reference: 40 CFR Part 409.

62.4(10) *Textile mills point source category.* The following is adopted by reference: 40 CFR Part 410.

62.4(11) *Cement manufacturing point source category.* The following is adopted by reference: 40 CFR Part 411.

62.4(12) *Concentrated animal feeding operations (CAFO) point source category.* The following is adopted by reference: 40 CFR Part 412.

62.4(13) *Electroplating point source category.* The following is adopted by reference: 40 CFR Part 413.

62.4(14) *Organic chemicals, plastics and synthetic fibers point source category.* The following is adopted by reference: 40 CFR Part 414.

62.4(15) *Inorganic chemicals manufacturing point source category.* The following is adopted by reference: 40 CFR Part 415.

62.4(16) Reserved.

62.4(17) *Soap and detergent manufacturing point source category.* The following is adopted by reference: 40 CFR Part 417.

62.4(18) *Fertilizer manufacturing point source category.* The following is adopted by reference: 40 CFR Part 418.

62.4(19) *Petroleum refining point source category.* The following is adopted by reference: 40 CFR Part 419.

62.4(20) *Iron and steel manufacturing point source category.* The following is adopted by reference: 40 CFR Part 420.

62.4(21) *Nonferrous metals manufacturing point source category.* The following is adopted by reference: 40 CFR Part 421.

62.4(22) *Phosphate manufacturing point source category.* The following is adopted by reference: 40 CFR Part 422.

62.4(23) *Steam electric power generating point source category.* The following is adopted by reference: 40 CFR Part 423.

62.4(24) *Ferroalloy manufacturing point source category.* The following is adopted by reference: 40 CFR Part 424.

62.4(25) *Leather tanning and finishing point source category.* The following is adopted by reference: 40 CFR Part 425.

62.4(26) *Glass manufacturing point source category.* The following is adopted by reference: 40 CFR Part 426.

62.4(27) *Asbestos manufacturing point source category.* The following is adopted by reference: 40 CFR Part 427.

62.4(28) *Rubber manufacturing point source category.* The following is adopted by reference: 40 CFR Part 428.

62.4(29) *Timber products processing point source category.* The following is adopted by reference: 40 CFR Part 429.

62.4(30) *Pulp, paper and paperboard point source category.* The following is adopted by reference: 40 CFR Part 430.

62.4(31) *Builders paper and roofing felt segment of the builders paper and board mills point source category.* Reserved.

62.4(32) *Meat and poultry products point source category.* The following is adopted by reference: 40 CFR Part 432.

62.4(33) *Metal finishing point source category.* The following is adopted by reference: 40 CFR Part 433.

62.4(34) *Coal mining point source category.* The following is adopted by reference: 40 CFR Part 434.

62.4(35) *Oil and gas extraction point source category.* The following is adopted by reference: 40 CFR Part 435.

62.4(36) *Mineral mining and processing point source category.* The following is adopted by reference: 40 CFR Part 436.

62.4(37) *Centralized waste treatment point source category.* The following is adopted by reference: 40 CFR Part 437.

62.4(38) *Metal products and machinery point source category.* The following is adopted by reference: 40 CFR Part 438.

62.4(39) *Pharmaceutical manufacturing point source category.* The following is adopted by reference: 40 CFR Part 439.

62.4(40) *Ore mining and dressing point source category.* The following is adopted by reference: 40 CFR Part 440.

62.4(41) *Industrial laundries point source category.* Reserved.

62.4(42) *Transportation equipment cleaning point source category.* The following is adopted by reference: 40 CFR Part 442.

62.4(43) *Paving and roofing materials (tars and asphalt) point source category.* The following is adopted by reference: 40 CFR Part 443.

62.4(44) *Waste combustors point source category.* The following is adopted by reference: 40 CFR Part 444.

62.4(45) *Landfills point source category.* The following is adopted by reference: 40 CFR Part 445.

62.4(46) *Paint formulating point source category.* The following is adopted by reference: 40 CFR Part 446.

62.4(47) *Ink formulating point source category.* The following is adopted by reference: 40 CFR Part 447.

62.4(48) *Printing and publishing point source category.* Reserved.

62.4(49) *Airport de-icing point source category.* The following is adopted by reference: 40 CFR Part 449.

62.4(50) *Construction and development point source category.* The following is adopted by reference: 40 CFR Part 450.

62.4(51) *Concentrated aquatic animal production point source category.* The following is adopted by reference: 40 CFR Part 451.

62.4(52) *Concrete products point source category.* Reserved.

62.4(53) *Shore receptor and bulk terminals point source category.* Reserved.

62.4(54) *Gum and wood chemicals manufacturing point source category.* The following is adopted by reference: 40 CFR Part 454.

62.4(55) *Pesticide chemicals.* The following is adopted by reference: 40 CFR Part 455.

62.4(56) *Adhesives and sealants industry point source category.* Reserved.

62.4(57) *Explosives manufacturing point source category.* The following is adopted by reference: 40 CFR Part 457.

62.4(58) *Carbon black manufacturing point source category.* The following is adopted by reference: 40 CFR Part 458.

62.4(59) *Photographic point source category.* The following is adopted by reference: 40 CFR Part 459.

62.4(60) *Hospital point source category.* The following is adopted by reference: 40 CFR Part 460.

62.4(61) *Battery manufacturing point source category.* The following is adopted by reference: 40 CFR Part 461.

62.4(62) Reserved.

62.4(63) *Plastic molding and forming point source category.* The following is adopted by reference: 40 CFR Part 463.

62.4(64) *Metal molding and castings point source category.* The following is adopted by reference: 40 CFR Part 464.

62.4(65) *Coil coating point source category.* The following is adopted by reference: 40 CFR Part 465.

62.4(66) *Porcelain enameling point source category.* The following is adopted by reference: 40 CFR Part 466.

62.4(67) *Aluminum forming point source category.* The following is adopted by reference: 40 CFR Part 467.

62.4(68) *Copper forming point source category.* The following is adopted by reference: 40 CFR Part 468.

62.4(69) *Electrical and electronic components point source category.* The following is adopted by reference: 40 CFR Part 469.

62.4(70) Reserved.

62.4(71) *Nonferrous metals forming and metal powders point source category.* The following is adopted by reference: 40 CFR Part 471.

[**ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—62.5(455B) Federal toxic effluent standards. The following is adopted by reference: 40 CFR Part 129.

[**ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—62.6(455B) Effluent limitations and pretreatment requirements for sources for which there are no federal effluent or pretreatment standards.

62.6(1) *Definitions.* As used in this rule:

a. *"Average"* means the sum of the total daily discharges by weight, volume or concentration during the reporting period (as specified in the operation permit) divided by the total number of days during the reporting period when the facility was in operation. With respect to the monitoring requirements, the "daily average" discharge shall be determined by the summation of all the measured daily discharges by weight, volume or concentration divided by the number of days during the reporting period when the measurements were made.

b. *"Maximum"* means the total discharge by weight, volume or concentration which cannot be exceeded during a 24-hour period.

c. *"Best engineering judgment"* means a judgment that considers any or all of the following:

(1) Known state-of-the-art (i.e., demonstrated treatment that is being done or can be done);

(2) Published technical articles and research results;

(3) Engineering reference books;

(4) Consultation with acknowledged experts in the field;

(5) Availability of equipment;

(6) Known or suspected toxicity of the pollutants;

(7) Safety, welfare and aesthetic effects on persons who may come in contact with the discharge; and

(8) Standards and rules of other regulatory agencies and states.

62.6(2) *Time of compliance.* Effluent limitations and pretreatment limitations established pursuant to this rule shall be achieved within a reasonable time after receipt of notice from the department of the applicability of these limitations.

62.6(3) *Effluent limitations.* This subrule establishes effluent limitations on the discharge of pollutants from sources other than publicly owned treatment works and semipublic sewage disposal systems that are not subject to the federal effluent standards adopted by reference in 62.4(1) and 62.4(3) to 62.4(71).

a. There shall be established an effluent limitation that represents the best engineering judgment of the department of the degree of effluent reduction consistent with the Act and Iowa Code chapter 455B.

b. The following wastes shall not be introduced into privately owned treatment works subject to this subrule:

(1) Wastes that create a fire or explosion hazard in the treatment works.

(2) Wastes at a flow rate or pollutant discharge rate, or both, which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency such that the effluent limitations in the permit of the treatment works are violated.

62.6(4) *Pretreatment requirements for incompatible wastes.* This subrule establishes pretreatment requirements for incompatible pollutants that apply to sources other than significant industrial users as defined in 567—60.2(455B), and to sources that are new or existing significant industrial users for which there is no federal pretreatment standard (i.e., sources which do not fall within a point source category or, if they do fall within a point source category, sources for which the administrator has not yet promulgated a pretreatment standard).

a. For sources that are within a point source category adopted by reference in 567—62.4(455B) for which there are promulgated effluent limitation guidelines, but no promulgated pretreatment standards, the pretreatment standard for incompatible pollutants shall be the promulgated effluent limitation guideline.

b. For sources that are not subject to paragraph *"a,"* the department shall establish an effluent limitation that represents the best professional judgment for effluent reduction that is consistent with the Act and Iowa Code chapter 455B.

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567—62.7(455B) Effluent limitations less stringent than the effluent limitation guidelines. An effluent limitation less stringent than the effluent limitation guideline (adopted by reference in 567—62.4(455B)) representing the degree of effluent reduction achievable by application of the best practicable control technology currently available may be allowed in an NPDES permit if the factors relating to the equipment or facilities involved, the process applied, or other such factors related to the discharger are fundamentally different from the factors considered by the administrator in the establishment of the guidelines. An individual discharger or other interested person may submit evidence concerning such factors to the director. On the basis of such evidence or other available information and in accordance with 40 CFR 125.31, the director will make a written finding that such factors are or are not fundamentally different from the facility compared to those specified in the development document. Any such less stringent effluent limitations must, as a condition precedent, be approved by the administrator.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—62.8(455B) Effluent limitations or pretreatment requirements more stringent than the effluent or pretreatment standards.

62.8(1) *Effluent limitations more stringent than the effluent limitation guidelines.* An effluent limitation more stringent than the effluent limitation guidelines representing the degree of effluent reduction achievable by application of the best practicable control technology currently available may be required in an NPDES permit if the factors relating to the equipment or facilities involved, the process applied, or other such factors related to the discharger are fundamentally different from the factors considered by the administrator in the establishment of the guidelines. An individual discharger or other interested person may submit evidence concerning such factors to the director. On the basis of

such evidence or other information available to the director, the director will make a written finding that such factors are or are not fundamentally different for the facility compared to those specified in the development document. Any such more stringent effluent limitation must, as a condition precedent, be approved by the administrator.

62.8(2) *Effluent limitations necessary to meet water quality standards.* No effluent, alone or in combination with the effluent of other sources, shall cause a violation of any applicable water quality standard. When it is found that a discharge that would comply with applicable effluent standards in 567—62.3(455B), 567—62.4(455B) or 567—62.5(455B) or effluent limitations in 567—62.6(455B) would cause a violation of water quality standards, the discharge will be required to meet the water quality-based effluent limits (WQBELs) necessary to achieve the applicable water quality standards as established in 567—Chapter 61. Any such effluent limit shall be derived from the calculated waste load allocation, as described in "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009, or the waste load allocation as required by a total maximum daily load, whichever is more stringent. The translation of waste load allocations to WQBELs shall use Iowa permit derivation methods, as described in the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009, except that the daily sample maximum criteria for *E. coli* set forth in Part E of the "Supporting Document for Iowa Water Quality Management Plans" shall not be used as an end-of-pipe permit limitation.

62.8(3) *Pretreatment requirements more stringent than pretreatment standards or requirements.* The department or the publicly owned treatment works may impose pretreatment requirements more stringent than the applicable pretreatment standard of 567—62.4(455B) or pretreatment requirements of 567—62.6(455B) if such more stringent requirements are necessary to prevent violations of water quality standards, interference, or pass through.

62.8(4) *Effluent limitations or pretreatment requirements in approved areawide waste treatment management plans.* Effluent limitations or pretreatment requirements more stringent than applicable effluent or pretreatment standards in 567—62.3(455B) to 567—62.5(455B) or effluent limitations or pretreatment requirements in 567—62.6(455B) may be imposed by the department if the more stringent effluent limitations or pretreatment requirements are required by an approved areawide waste treatment management (208(b)) plan.

62.8(5) *Effluent limitations for pollutants not covered by effluent or pretreatment standards.* An effluent limitation on a pollutant not otherwise regulated under 567—62.3(455B) to 567—62.6(455B) (e.g., polybrominated biphenyls, PBBs) may be imposed on a case-by-case basis. Such limitation shall be based on effect of the pollutant in water and the feasibility and reasonableness of treating such pollutant.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 8123B**, IAB 9/9/09, effective 10/14/09; **ARC 8214B**, IAB 10/7/09, effective 11/11/09]

567—62.9(455B) Disposal of pollutants into wells. Commencing September 1, 1977, there shall be no disposal of a pollutant other than heat into wells within Iowa. Any disposal of heat shall be sufficiently controlled to protect the public health and welfare and to prevent pollution of ground and surface water resources. In reviewing any permits proposed to be issued for the disposal into wells, the director shall consider, among other things, any policies, technical information, or requirements specified by the administrator in regulations issued pursuant to the Act or in directives issued to EPA regional offices.

567—62.10(455B) Effluent reuse. Treated final effluent may be reused in a manner noted in 62.10(1) or as specified in the NPDES permit.

62.10(1) Reuse for golf course irrigation. Treated final effluent may be reused for golf course irrigation if the conditions described in *"a"* and *"b"* are met.

a. The treated final effluent must meet one of the following conditions:

(1) A minimum total residual chlorine level of 0.5 mg/l must be maintained at a minimum of 15 minutes contact time of chlorine to wastewater prior to the irrigation of the golf course with treatment plant effluent; or

(2) Disinfected effluent shall be held in a retention pond with a detention time of at least 20 days prior to reuse as irrigation on a golf course. For this purpose, effluent may be disinfected using any

common treatment technology, and either an existing pond or a pond constructed specifically for effluent retention may be used.

b. A golf course utilizing treated final effluent shall take all of the following actions:

(1) Clearly state on all scorecards that treated final effluent is used for irrigation of the golf course and oral contact with golf balls and tees should be avoided;

(2) Post signs that warn against consumption of water at all water hazards;

(3) Color code, label, or tag all piping and sprinklers associated with the distribution or transmission of the treated final effluent to clearly warn against the consumptive use of the contents; and

(4) Restrict the access of the public to any area of the golf course where spraying is being conducted.

All four of the above conditions must be met.

62.10(2) Reserved.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

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CHAPTER 63
MONITORING, ANALYTICAL AND REPORTING REQUIREMENTS

[Prior to 7/1/83, DEQ Ch 18]
[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—63.1(455B) Guidelines establishing test procedures for the analysis of pollutants. Only the procedures prescribed in this chapter shall be used to perform the measurements indicated in an application for an operation permit submitted to the department, a report required to be submitted by the terms of an operation permit, and a certification issued by the department pursuant to Section 401 of the Act.

63.1(1) Identification of test procedures.

a. The following is adopted by reference: 40 Code of Federal Regulations (CFR) Part 136.

b. All parameters for which testing is required by a wastewater discharge permit, permit application, or administrative order, except operational performance testing, must be analyzed using approved methods specified in 40 CFR Part 136.3 or, under certain circumstances, by other methods that may be more advantageous to use when such other methods have been previously approved by the director pursuant to 63.1(2). Samples collected for operational testing pursuant to 63.3(4) need not be analyzed by approved analytical methods; however, commonly accepted test methods should be used.

63.1(2) Application for alternate test procedures.

a. Any person may apply to the EPA regional administrator through the director for approval of an alternate test procedure.

b. The application for an alternate test procedure may be made by letter and shall:

(1) Provide the name and address of the responsible person or firm holding or applying for the permit (if not the applicant) and the applicable ID number of the existing or pending permit and type of permit for which the alternate test procedure is requested and the discharge serial number, if any.

(2) Identify the pollutant or parameter for which approval of an alternate testing procedure is being requested.

(3) Provide justification for using testing procedures other than those specified in 40 CFR Part 136.3.

63.1(3) Required containers, preservation techniques and holding times. All samples collected in accordance with self-monitoring requirements as defined in an operation permit shall comply with the container, preservation techniques, and holding time requirements as specified in Table IV. Sample preservation should be performed immediately upon collection, if feasible.

63.1(4) All laboratories conducting analyses required by this chapter must be certified in accordance with 567—Chapter 83. Routine on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine, other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements such as flow and cell depth, and operational monitoring tests specified in 63.3(4) are excluded from this requirement. All instrumentation used for conducting any analyses required by this chapter must be properly calibrated according to the manufacturer's instructions.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—63.2(455B) Records of monitoring activities and results.

63.2(1) The permittee shall maintain records of all information resulting from any monitoring activities required in its operation permit and from any operational performance monitoring.

63.2(2) Any records of monitoring activities and results shall include for all samples:

a. The date, exact place and time of sampling.

b. The dates analyses were performed.

c. Who performed the analyses.

d. The analytical techniques or methods used, and

e. The results of such analyses.

63.2(3) The permittee shall retain for a minimum of three years all paper and electronic records of monitoring activities and results including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records. This retention includes but is not limited to

monitoring and calibration records from pH meters, dissolved oxygen meters, total residual chlorine meters, flow meters, and temperature readings from any composite samplers. The period of retention shall be considered to be extended during the course of any unresolved litigation or when requested by the director or the regional administrator.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—63.3(455B) Minimum self-monitoring requirements in permits.

63.3(1) *Monitoring by organic waste dischargers.* The minimum self-monitoring requirements to be incorporated in operation permits for facilities discharging organic wastes shall be the appropriate requirements in Tables I, II, and III. Additional monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, industrial contribution to the system, complexity of the treatment process, history of noncompliance or any other factor which requires strict operational control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008, located on the NPDES Web site.

63.3(2) *Monitoring by inorganic waste dischargers.* The self-monitoring requirements to be incorporated in the operation permit for facilities discharging inorganic wastes shall be determined on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, complexity of the treatment process, history of noncompliance or any other factor which requires strict control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008, located on the NPDES Web site.

63.3(3) *Monitoring of significant industrial users of publicly owned treatment works.* Monitoring for significant industrial users as defined in 567—60.2(455B) shall be determined as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008, located on the NPDES Web site. Results of such monitoring shall be submitted to the department in accordance with the reporting requirements in the operation permit. The monitoring program of a publicly owned treatment works with a pretreatment program approved by the department may be used in lieu of the supporting document.

63.3(4) *Operational performance monitoring.* Operational performance monitoring for treatment unit process control shall be conducted to ensure that the facility is properly operated in accordance with its design. The results of any operational performance monitoring need not be reported to the department, but shall be maintained in accordance with rule 567—63.2(455B). Additional operational performance monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, complexity of the treatment process, history of noncompliance or any other factor that requires strict control to meet the effluent limitations of the permit. The results of operational performance monitoring specified in the operation permit shall be submitted to the department in accordance with the reporting requirements in the operation permit.

63.3(5) *Modification of minimum monitoring requirements.* Monitoring requirements may be modified or reduced at the discretion of the director when requested by the permittee. Adequate justification must be presented by the permittee that the reduced or modified requirements will accurately reflect actual wastewater characteristics and will not adversely impact the operation of the facility. Requests for modification or reduction of monitoring requirements in an existing permit are considered variance requests and must follow the procedures in 567—paragraph 60.4(2)*"b."* All reductions or modifications of monitoring incorporated into an operation or NPDES permit by amendment or upon reissuance of the permit are only effective until the expiration date of that permit.

63.3(6) *Impairment monitoring.* If a wastewater treatment facility is located in the watershed of an impaired water body that is listed on Iowa's most recent Section 303(d) list (as described in 40 CFR 130.7), additional monitoring for parameters that are contributing to the impairment may be included in the operation or NPDES permit on a case-by-case basis.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—63.4(455B) Effluent toxicity testing requirements in permits.

63.4(1) *Effluent toxicity testing.* All major municipal and industrial dischargers shall be required to carry out effluent toxicity testing. Minor dischargers may be required to conduct effluent toxicity tests based on a case-by-case evaluation of the impact of the discharge on the receiving stream or industrial contribution to the system. All dischargers required to conduct effluent toxicity tests shall conduct, at a minimum, one valid effluent toxicity test annually. The testing requirements will be placed in the operation permit for each discharger required to conduct this testing. Additional monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, industrial contribution to the system, complexities of the treatment process, history of noncompliance or any other factor which requires strict operational control to meet the effluent limitations of the permit. Any effluent toxicity test completed by the department or other agency and conducted according to procedures stated or referenced in this rule may be used to determine compliance with an operational permit.

63.4(2) *Testing procedures.* Dischargers shall be required to conduct effluent toxicity tests in accordance with the following general requirements:

a. The effluent toxicity tests shall be performed using a 24-hour composite sample of the effluent collected at the location stated in the operation permit. All composite samples shall be delivered to the testing laboratory within a reasonable time (approximately 24 hours) after collection and all tests must commence within 36 hours following sample collection. The results of all effluent toxicity tests conducted using approved procedures, including any tests performed at a greater frequency than required in the operation permit, shall be submitted to the department, on Form 542-1381 provided by the department, within 30 days of completing the test.

b. All effluent toxicity tests shall be conducted using the test methodologies and protocols described within "Standard Operating Procedure: Effluent Toxicity Testing, Iowa Department of Natural Resources," March 1991. This procedure is adopted as part of this subrule and is filed as part of this subrule with the administrative rules coordinator. This procedure is an essential part of the testing procedures and is available upon request to the department although not printed in this subrule. Laboratories performing the effluent toxicity tests shall also have a quality assurance plan.

c. All effluent toxicity tests shall be performed using the water flea *(Ceriodaphnia dubia),* and the fathead minnow *(Pimephales promelas)*.

d. Effluent toxicity tests shall include, at a minimum, two different concentrations of effluent. One test shall consist of 100 percent effluent, and a second test shall be a diluted effluent sample as defined. A control test, consisting of 100 percent culture water for each respective organism shall also be used. The test shall last for 48 hours at which time the mortality will be determined for all tests.

e. All effluent toxicity tests shall be of the pass/fail type.

63.4(3) If there is a positive toxicity test result in the diluted effluent sample from a valid effluent toxicity test, the following requirements apply unless the exception in paragraph *"c"* of this subrule is applicable.

a. At a minimum, the discharger shall be required to conduct quarterly effluent toxicity tests until three successive tests are determined not to be positive, after which the normal annual testing shall be resumed.

b. If the discharger has two successive positive valid diluted effluent toxicity test results or three positive test results out of five valid diluted effluent toxicity tests, the discharger shall be required to conduct a toxicity reduction evaluation (TRE). The discharger may be required to carry out instream monitoring or other analysis in conjunction with the TRE. At any time during the course of conducting a TRE there are three consecutive follow-up toxicity test results for the diluted sample which are not positive, the facility will be considered in compliance and work on the TRE may cease. Annual testing for effluent toxicity shall then resume. Nothing in these rules shall preclude the department from taking enforcement action beyond that described in these rules.

c. When the pretest chemical analysis for un-ionized ammonia nitrogen (NH3-N) or total residual chlorine (TRC) on the diluted effluent sample exceeds the concentrations given below, a positive test

result is likely to have been caused by high concentrations of NH3 or TRC, and the test result will not be used to determine if follow-up testing is needed.

(1) Un-ionized Ammonia Nitrogen—0.9 mg/l

(2) TRC—0.1 mg/l

567—63.5(455B) Self-monitoring and reporting for animal feeding operations.

63.5(1) The following self-monitoring requirements may be imposed on an animal-feeding operation in any operation permit issued for such an operation.

a. Measurement of liquid level in a waste storage facility on a periodic basis.

b. Measurement of daily precipitation, as appropriate.

c. Sampling and analysis of groundwater as necessary to determine effects of wastewater application.

d. Other measurements necessary to evaluate the adequacy of a waste disposal system.

63.5(2) Reports of the self-monitoring results shall be submitted to the appropriate regional field office of the department quarterly. The quarterly reports shall cover the periods January through March, April through June, July through September, and October through December. The quarterly report for each period shall be submitted by the tenth day of the month following the quarter being reported.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—63.6(455B) Bypasses and upsets.

63.6(1) *Prohibition.* Bypasses from any portion of a treatment facility or from a sanitary sewer collection system designed to carry only sewage are prohibited. The department may not assess a civil penalty against a permittee for a bypass if the permittee has complied with all of the following:

a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The permittee submitted the information required in 63.6(2), 63.6(3), and 63.6(5).

63.6(2) *Request for anticipated bypass.* Except for bypasses that occur as a result of mechanical failure or acts beyond the control of the owner or operator of a waste disposal system (unanticipated bypasses), the owner or operator shall obtain written permission from the department prior to any discharge of sewage or wastes from a waste disposal system not authorized by a discharge permit. The director may approve an anticipated bypass after considering its adverse effects if the director determines that it will meet the conditions in 63.6(1).

a. The request for a bypass shall be submitted to the appropriate regional field office of the department at least ten days prior to the expected date of the event.

b. The request shall be submitted in writing and shall include all of the following:

(1) The reason for the bypass;

(2) The date and time the bypass will begin;

(3) The expected duration of the bypass;

(4) An estimate of the amount of untreated or partially treated sewage or wastewater that will be discharged;

(5) The location of the bypass;

(6) The name of any body of surface water that will be affected by the bypass; and

(7) Any actions the owner or operator proposes to take to mitigate the effects of the bypass upon the receiving stream or other surface water.

63.6(3) *Notification of unanticipated bypass or upset and public notices.* In the event that a bypass or upset occurs without prior notice having been provided pursuant to 63.6(2) or as a result of mechanical failure or acts beyond the control of the owner or operator, the owner or operator of the treatment facility

or collection system shall notify the department by telephone as soon as possible but not later than 24 hours after the onset or discovery.

a. Notification shall be made by contacting the appropriate field office.

b. Notification shall include information on as many items listed in subparagraphs 63.6(3)*"d"*(1) through (6) as available information will allow.

c. When the department has been notified of an unanticipated bypass, the department shall determine if a public notice is necessary. If the department determines that public notification is necessary, the owner or operator of the treatment facility or the collection system shall prepare a public notice.

d. A written submission describing the bypass shall also be provided within five days of the time the permittee becomes aware of the bypass. The written submission shall contain the following:

(1) The reason for the bypass, including the amount and duration of any rainfall event that may have contributed to the bypass;

(2) The date and time of onset or discovery of the bypass;

(3) The duration of the bypass;

(4) An estimate of the amount of untreated or partially treated sewage or wastewater that was discharged;

(5) The location of the bypass; and

(6) The name of any body of surface water that was affected by the bypass.

63.6(4) *Monitoring, disinfection, and cleanup.* The owner or operator of the treatment facility or collection system shall perform any additional monitoring, sampling, or analysis of the bypass or upset requested by the regional field office of the department and shall comply with the instructions of the department intended to minimize the effect of a bypass or upset on the receiving water of the state. The following requirements for disinfection and cleanup apply to all bypasses:

a. The department may require temporary disinfection depending on the volume and duration of the bypass, the classification of the stream affected by the bypass, and the time of year during which the bypass occurs; and

b. The department may require cleanup of any debris and waste materials deposited in the area affected by the bypass. In conjunction with the cleanup, the department may require lime application to the ground surface or disinfection of the area with chlorine solution.

63.6(5) *Reporting of subsequent findings and additional information requested by the department.* All subsequent findings and laboratory results concerning a bypass shall be submitted in writing to the appropriate regional field office of the department as soon as they become available. Any additional information requested by the department concerning the steps taken to minimize the effects of a bypass shall be submitted within 30 days of the request.

63.6(6) *Upset.* An upset is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

a. An upset constitutes an affirmative defense to the assessment of a civil penalty for noncompliance with technology-based effluent limitations if the requirements of paragraph *"b"* of this subrule are met.

b. A permittee that wishes to establish an affirmative defense of upset shall demonstrate, through properly signed operation logs or other relevant evidence, that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time of upset being properly operated;

(3) The permittee submitted notice of upset in accordance with 63.6(3); and

(4) The permittee completed any remedial measures required by the department, including monitoring, sampling, or analysis of the upset requested by the department and any instructions from the department calculated to minimize the effect of the upset on the receiving water of the state.

c. In any enforcement action proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09 (See Delay note at end of chapter); **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—63.7(455B) Submission of records of operation. Except as provided in subrules 63.3(4) and 63.5(1), records of operation shall be submitted to the appropriate regional field office of the department within 15 days following the close of the reporting period specified in 63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the operation permit. The permittee shall report all instances of noncompliance not reported under 63.12(455B) at the time monitoring reports are submitted. If a permittee becomes aware that it failed to submit any relevant facts in any report to the director, the permittee shall promptly submit such facts or information.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—63.8(455B) Frequency of submitting records of operation. Except as provided in subrules 63.3(4) and 63.5(1), records of operation required by these rules shall be submitted at monthly intervals. The department may vary the interval at which records of operation shall be submitted in certain cases. Variation from the monthly interval shall be made only under such conditions as the department may prescribe in writing to the person concerned.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—63.9(455B) Content of records of operation. Records of operation shall include the results of all monitoring specified in or authorized by this chapter and incorporated in the operation permit. The results of any monitoring not specified in the operation permit performed at the compliance monitoring point and analyzed according to 40 CFR Part 136 shall be included in the calculation and reporting of any data submitted in accordance with this chapter and the operation permit.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—63.10(455B) Records of operation forms. Records of operation forms shall be those provided by the department unless its forms are not applicable and in such case the records of operation shall be submitted on such other forms as are agreeable to the department.

567—63.11(455B) Certification and signatory requirements in the submission of records of operation. All records of operation as required by these rules shall include certification which attests that all information contained therein is representative and accurate. Each record of operation shall contain the signature of a duly authorized representative of the corporation, partnership or sole proprietorship, municipality, or public facility which has proprietorship of the wastewater treatment or disposal system as specified in 567—subrule 64.3(8). For electronic submissions of records of operation, a signed paper copy of the record that was submitted electronically must be maintained at the facility for a minimum of three years.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—63.12(455B) Twenty-four-hour reporting. All permittees shall report any permit noncompliance that may endanger human health or the environment including, but not limited to, violations of maximum daily limits for any toxic pollutant (listed as toxic under 307(a)(1) of the Act) or hazardous substance (as designated in 40 CFR Part 116 pursuant to 311 of the Act). Information shall be provided orally to the appropriate regional field office of the department within 24 hours from the time the permittee becomes aware of the circumstances. In addition, a written submission that includes a description of noncompliance and its cause; the period of noncompliance including exact dates and times; whether the noncompliance has been corrected or the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent a reoccurrence of the noncompliance must be provided to the regional field office within 5 days of the occurrence.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—63.13(455B) Planned changes. The permittee shall give notice to the appropriate regional field office of the department 30 days prior to any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. Notice has not been given to any other section of the department;
2. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as defined in 567—60.2(455B);
3. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices; or
4. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in the permit.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—63.14(455B) Anticipated noncompliance. The permittee shall give notice to the appropriate regional field office of the department of any activity which may result in noncompliance with permit requirements. Notice is required only when previous notice has not been given to any other section of the department.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—63.15(455B) Other noncompliance. The permittee shall provide a written description of all instances of noncompliance not reported under rule 567—63.12(455B) or 567—paragraph 64.7(4)*"c"* at the time discharge monitoring reports (DMRs) are submitted. The written description shall contain the information listed in rule 567—63.12(455B).

[**ARC 2482C**, IAB 4/13/16, effective 5/18/16]

Table I Minimum Self-Monitoring in Permits for Organic Waste Dischargers
Controlled Discharge Wastewater Treatment Plants

Wastewater Parameter	Sampling[5] Location	Sample Type[4]	Frequency by P.E.[1,5,6]			
			< 100	101-500	501-1,000	>1,001
Flow[2]	Raw	24-Hr Total	1/Week	Daily	Daily	Daily
	Final	Instantaneous	2/Week During Drawdown	Daily During Drawdown		
BOD_5	Raw	24-Hr Composite	–	–	–	1/3 Months
$CBOD_5$[3]	Final	Grab	1/Drawdown[7]	Twice during drawdown		
Total Suspended Solids (TSS)[3]	Raw	24-Hr Composite	–	–	–	1/3 Months
	Final	Grab	1/Drawdown[7]	Twice during drawdown		
Ammonia Nitrogen	Final	Grab	1/Drawdown	Twice during drawdown		
E. coli	Final	Grab	1/Drawdown	1/Drawdown	Twice During Drawdown	
pH[8]	Raw	Grab	–	–	–	1/3 Months
	Final	Grab	1/Drawdown	1/Drawdown	Twice During Drawdown	1/Week During Drawdown
Cell Depth[9]	Each Cell	Measurement	1/Week	1/Week	1/Week	2/Week
Total Residual Chlorine (TRC)[10]	Final	Grab	1/Drawdown	1/Drawdown	Twice during drawdown	

Explanation of Superscripts

1 - The P.E. shall be computed on the basis of the original engineering design criteria for the facility and any modifications thereof. Where such design criteria are not available, the P.E. shall be computed using 0.167 pounds of BOD_5 per capita per day.

2 - Facilities serving a population equivalent less than 100 are not required to provide continuous flow measurement but are required to provide manual flow measurement at the specified frequency. Facilities serving a population equivalent greater than 100 are required to provide continuous flow measurement of the raw waste but need only provide manual flow measurement on the final effluent. Acceptable flow measurement and recording techniques shall be those described in "Iowa Wastewater Facilities Design Standards," Chapter 14 (14.7.2).

3 - In addition to the sampling required above, a grab sample of the lagoon cell contents collected at a point near the outlet structure shall be analyzed at least two weeks prior to an anticipated discharge to demonstrate that the wastewater is of such quality to meet the effluent limitations in the permit. The permittee must have the sample analyzed for 5-day carbonaceous biochemical oxygen demand ($CBOD_5$) and total suspended solids (TSS). The results must be compared with the 30-day average effluent limits. If the results are less than the 30-day average limits, the permittee may isolate the final cell and draw down the lagoon cell. If the pre-discharge sample results exceed the 30-day average effluent limits for either $CBOD_5$ or TSS, the permittee must contact the local DNR Field Office for guidance before beginning to discharge.

4 - Sample types are defined as:

"Grab Sample" means a representative, discrete portion of sewage, industrial waste, other waste, surface water or groundwater taken without regard to flow rate.

"24-Hour Composite" means:

a. For facilities where no significant industrial waste is present, a sample made by collecting a minimum of six grab samples taken four hours apart and combined in proportion to the flow rate at the time each grab sample was collected. (Generally, grab samples should be collected at 8 a.m., 12 a.m. (noon), 4 p.m., 8 p.m., 12 p.m. (midnight), and 4 a.m. on weekdays (Monday through Friday) unless local conditions indicate another more appropriate time for sample collection.)

b. For facilities where significant industrial waste is present, a sample made by collecting a minimum of 12 grab samples taken two hours apart and combined in proportion to the flow rate at the time each grab sample was collected. (Generally, grab samples should be collected at 8 a.m., 10 a.m., 12 a.m. (noon), 2 p.m., 4 p.m., 6 p.m., 8 p.m., 10 p.m., 12 p.m. (midnight), 2 a.m., 4 a.m., and 6 a.m. on weekdays (Monday through Friday) unless local conditions indicate another more appropriate time for sample collection.)

c. An automatic composite sampling device may also be used for collection of flow-proportioned or time-proportioned composite samples.

5 - Raw wastewater samples shall be taken continuously (year-round) at the specified frequency. Final effluent wastewater samples shall be taken only during the drawdown period. The first final effluent sample shall be taken the third day after the drawdown begins, and subsequent samples shall be taken at the specified frequencies. For final effluent samples that are required to be taken twice during drawdown, the first sample shall be taken the third day after the drawdown begins, and the second sample shall be taken between three (3) and five (5) days before the drawdown ends.

6 - If a facility has a P.E. greater than 3000 or a significant industrial contributor, additional monitoring may be required.

7 - One-cell controlled discharge lagoons with a P.E. less than 100 will be required to perform final effluent sampling for 5-day carbonaceous biochemical oxygen demand ($CBOD_5$) and total suspended solids (TSS) twice during drawdown in accordance with superscript #5.

8 - pH can be monitored using a colorimetric comparator or a meter.

9 - Cell Depth monitoring is required to be conducted year-round (not exclusively during drawdown periods). It may be applied to lagoon cells at continuous discharge wastewater treatment facilities on a case-by-case basis.

10 - TRC can be monitored using a colorimetric comparator or a meter. TRC monitoring is only required for facilities with TRC effluent limitations.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09 (See Delay note at end of chapter); **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

Table II Minimum Self-Monitoring in Permits for Organic Waste Dischargers
Continuous Discharge Wastewater Treatment Plants

Wastewater Parameter	Sampling Location	Sample Type[3,11]	Frequency by P.E.[1,6]						
			≤ 100	101-500	501-1,000	1,001-3,000	3,001-15,000	15,001-105,000	> 105,000
Flow[2]	Raw or Final	24-Hr Total	1/week	Daily	Daily	Daily	Daily	Daily	Daily
BOD_5	Raw	24-Hr Comp.	1/6 Months	1/3 Months	1/Week	1/Week	2/Week	2-5/Week[5]	Daily
$CBOD_5$	Final	24-Hr Comp.	1/3 Months	1/Month	1/Week	1/Week	2/Week	2-5/Week[5]	Daily
Total Suspended Solids (TSS)	Raw	24-Hr Comp.	1/6 Months	1/3 Months	1/Month	1/2 Weeks	1/Week	2-5/Week[5]	Daily
	Final	24-Hr Comp.	1/3 Months	1/3 Months	1/Month	1/2 Weeks	1/Week	2-5/Week[5]	Daily
Ammonia Nitrogen[10]	Final	24-Hr Comp.	1/Month	1/Month	1/Week	1/Week	2/Week	2-5/Week[5]	Daily
TKN[8]	Raw	24-Hr Comp.	—	—	—	—	1/Month	1/Month	1/2 Weeks
Total Nitrogen[9]	Final	24-Hr Comp.	—	—	—	—	1/3 Months	1/2 Months	1/2 Months
Total Phosphorus[9]	Final	24-Hr Comp.	—	—	—	—	1/3 Months	1/2 Months	1/2 Months
pH[12]	Raw	Grab	—	—	1/Week	1/Week	2/Week	2-5/Week[5]	Daily
	Final	Grab	1/3 Months	1/Month	1/Week	1/Week	2/Week	5/Week	Daily
E. coli[4,7]	Final	Grab	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months
Temperature	Raw	Grab	—	—	1/Week	1/Week	2/Week	2-5/Week[5]	Daily
	Final	Grab	1/3 Months	1/Month	1/Week	1/Week	2/Week	2-5/Week[5]	Daily
Total Residual Chlorine (TRC)[13]	Final	Grab	1/Week	1/Week	2/Week	2/Week	3/Week	5/Week	Daily

Explanation of Superscripts

1 - See Superscript #1, Table I.

2 - See Superscript #2, Table I. Both raw and final flow monitoring may be required if the raw and final wastewater flows may be different for any reason.

3 - See Superscript #4, Table I.

4 - Analysis is required only when the facility discharges directly to a stream designated as Class A1, A2, or A3 or there is a reasonable potential for the discharge to affect a stream designated as Class A1, A2, or A3.

5 - The frequency of sample collection and analysis shall be increased by 1/week according to the following: 15,001 to 30,000 – 2/week; 30,001 to 45,000 – 3/week; 45,001 to 75,000 – 4/week; 75,001 – 105,000 – 5/week.

6 - The requirements for significant industrial users shall be those specified in the permit for final effluent monitoring.

7 - Bacteria Monitoring. All facilities must collect and analyze a minimum of five *E. coli* samples in one calendar month during each three-month period (quarter) during the appropriate recreation season associated with the receiving stream designation as specified in 567—subrule 61.3(3). For sampling required during the recreational season, March 15 to November 15, the three-month periods are March – May, June – August, and September – November. For year-round sampling, the three-month periods are January – March, April – June, July – September, and October – December. For each three-month period, the operator must take five samples during one calendar month, resulting in 15 samples in one year for sampling required during the recreation season and 20 samples per year for sampling required year-round.

The following requirements apply to the individual samples collected in one calendar month:

a. Samples must be spaced over one calendar month.
b. No more than one sample can be collected on any one day.
c. There must be a minimum of two days between each sample.
d. No more than two samples may be collected in a period of seven consecutive days.

The geometric mean must be calculated using all valid sample results collected during a month. The geometric mean formula is as follows: Geometric Mean = (Sample one x Sample two x Sample three x Sample four x Sample five…Sample N)^(1/N), which is the N^{th} root of the result of the multiplication of all of the sample results where N = the number of samples. If a sample result is a less than value, the value reported by the lab without the less than sign shall be used in the geometric mean calculation.

8 - Additional Total Kjeldahl Nitrogen (TKN) monitoring may be required if the facility has one or more significant industrial users or has effluent ammonia violations.

9 - Total nitrogen shall be determined by testing for Total Kjeldahl Nitrogen (TKN) and nitrate + nitrite nitrogen and reporting the sum of the TKN and nitrate + nitrite results (reported as N). Nitrate + nitrite can be analyzed together or separately. Total phosphorus shall be reported as P.

10 - Ammonia nitrogen monitoring is only required for facilities with ammonia nitrogen effluent limitations.

11 - For aerated lagoons, 24-hour composite samples are not required on the final effluent; grab samples are acceptable.

12 - See Superscript #8, Table I.

13 - See Superscript #10, Table I.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09 (See Delay note at end of chapter); **ARC 8123B**, IAB 9/9/09, effective 10/14/09; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

Table III Minimum Self-Monitoring in Permits for Land Application Systems

Wastewater Parameter	Sampling Location	Sample Type[2]	Flow in Million Gallons Per Day[1]		
			< 0.5	0.5 - 2.0	> 2.0
Nitrate Nitrogen	Monitoring Wells[3]	Grab	1/3 Months	1/2 Months	1/Month
Dissolved Solids	Monitoring Wells[3]	Grab	1/3 Months	1/2 Months	1/Month
Fecal Coliform	Monitoring Wells[3]	Grab	1/3 Months	1/2 Months	1/Month
Volume Applied	Final[4]	24-Hr Total	Daily	Daily	Daily
Total Nitrogen	Final[4]	24-Hr Comp.	1/3 Months	1/2 Months	1/Month
Total Phosphorus	Final[4]	24-Hr Comp.	1/3 Months	1/2 Months	1/Month

Explanation of Superscripts

1 - The flow to be used for determining sample frequency shall be the original engineering design, average wet weather flow, or any modifications thereof. The design flow shall be the raw wastewater flow prior to any treatment units.

2 - See Superscript #4, Table I.

3 - Monitoring wells shall be sampled according to the procedures described in Table IV.

4 - Final shall be the final effluent from the storage facility prior to land application.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

Table IV Required Containers, Preservation Techniques, and Holding Times

	PARAMETER	CONTAINER[1]	PRESERVATIVE[2]	MAXIMUM HOLDING TIME[3]
	Bacterial Tests			
1.	Coliform, fecal and total	P,G	Cool, 4°C 0.008% $Na_2S_2O_3$[4]	6 hours
2.	*Escherichia coli (E. coli)*	P,G	Cool, 4°C	6 hours
3.	Fecal streptococci	P,G	Cool, 4°C 0.008% $Na_2S_2O_3$[4]	6 hours
	Chemical Tests			
4.	Acidity	P,G	Cool, 4°C	14 days
5.	Alkalinity	P,G	Cool, 4°C	14 days
6.	Ammonia	P,G	Cool, 4°C H_2SO_4 to pH < 2	28 days
7.	Biochemical oxygen demand	P,G	Cool, 4°C	48 hours
8.	Biochemical oxygen demand, carbonaceous	P,G	Cool, 4°C	48 hours
9.	Bromide	P,G	None required	28 days
10.	Chemical oxygen demand	P,G	Cool, 4°C H_2SO_4 to pH < 2	28 days
11.	Chloride	P,G	None required	28 days
12.	Chlorine, total residual	P,G	None required	Analyze immediately
13.	Color	P,G	Cool, 4°C	48 hours
14.	Cyanide, total and amenable to chlorination	P,G	Cool, 4°C NaOH to pH > 12 0.6g ascorbic acid[4]	14 days[5]
15.	Cyanide, free	P,G	Cool, 4°C NaOH to pH > 12 0.6g ascorbic acid[4]	4 hours
16.	Fluoride	P	None required	28 days
17.	Hardness	P,G	HNO_3 to pH < 2	6 months
18.	Hydrogen ion (pH)	P,G	None required	Analyze immediately
19.	Kjeldahl and organic nitrogen	P,G	Cool, 4°C H_2SO_4 to pH < 2	28 days
	Metals			
20.	Chromium VI	P,G	Cool, 4°C	24 hours
21.	Mercury	P,G	HNO_3 to pH < 2	28 days
22.	Metals, except above	P,G	HNO_3 to pH < 2	6 months
23.	Nitrate	P,G	Cool, 4°C	48 hours
24.	Nitrate-nitrite	P,G	Cool, 4°C H_2SO_4 to pH < 2	28 days
25.	Nitrite	P,G	Cool, 4°C	48 hours
26.	Oil and grease	G	Cool, 4°C H_2SO_4 to pH < 2	28 days
	Metals			
27.	Organic carbon	P,G	Cool, 4°C Cl or H_2SO_4 to pH < 2	28 days
28.	Orthophosphate	P,G	Filter immediately Cool, 4°C	48 hours
29.	Oxygen, dissolved probe	G Bottle and top	None required	Analyze immediately
	Winkler	G Bottle and top	Fix on site and store in dark	8 hours
30.	Phenols	G only	Cool, 4°C H_2SO_4 to pH < 2	28 days
31.	Phosphorus (elemental)	G	Cool, 4°C	48 hours
32.	Phosphorus, total	P,G	Cool, 4°C H_2SO_4 to pH < 2	28 days

	PARAMETER	CONTAINER[1]	PRESERVATIVE[2]	MAXIMUM HOLDING TIME[3]
33.	Residue, total	P,G	Cool, 4°C	7 days
34.	Residue, filterable	P,G	Cool, 4°C	7 days
35.	Residue, Nonfilterable (TSS)	P,G	Cool, 4°C	7 days
36.	Residue, settleable	P,G	Cool, 4°C	48 hours
37.	Residue, volatile	P,G	Cool, 4°C	7 days
38.	Silica	P	Cool, 4°C	28 days
39.	Specific conductance	P,G	Cool, 4°C	28 days
40.	Sulfate	P,G	Cool, 4°C	28 days
41.	Sulfide	P,G	Cool, 4°C, add zinc acetate plus sodium hydroxide to pH > 9	7 days
42.	Sulfite	P,G	None required	Analyze immediately
43.	Surfactants	P,G	Cool, 4°C	48 hours
44.	Temperature	P,G	None required	Analyze immediately
45.	Turbidity	P,G	Cool, 4°C	48 hours
46.	Sampling Procedures for Monitoring Wells			
	A. Measure depth from top of well head casing to water table			
	B. Calculate quantity of water to be flushed from well using the formula:			
	Gallons to be pumped = $0.221\ d^2h$, where			
	d = well diameter in inches			
	h = depth in feet of standing water in well prior to pumping			
	C. Pump well			
	D. Measure depth from well hand casing to water table after pumping			
	E. Wait for well to recharge to or near static water level prior to sampling			

Table IV Notes

1. Polyethylene (P) or Glass (G).
2. Sample preservation should be performed immediately upon sample collection. For composite samples, each aliquot should be preserved at the time of collection. When use of an automated sampler makes it impossible to preserve each aliquot, then samples may be preserved by maintaining at 4°C until compositing and sample splitting is completed.
3. Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before analysis and still be considered valid. Samples may be held for longer periods only if the permittee, or monitoring laboratory, has data on file to show that the specific types of samples under study are stable for the longer time, and has received a variance from the executive director. Some samples may not be stable for the maximum time period given in the table. A permittee, or monitoring laboratory, is obligated to hold the sample for a shorter time if knowledge exists to show this is necessary to maintain sample stability.
4. Should only be used in the presence of residual chlorine.
5. Maximum holding time is 24 hours when sulfide is present. Optionally, all samples may be tested with lead acetate paper before the pH adjustment in order to determine if sulfide is present. If sulfide is present, it can be removed by the addition of cadmium carbonate powder until a negative spot test is obtained. The sample is filtered and then NaOH is added to pH 12.
6. Samples should be filtered immediately onsite before adding preservative for dissolved metals.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09 (See Delay note at end of chapter); **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

These rules are intended to implement Iowa Code section 455B.173.

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[Filed ARC 2482C (Notice ARC 2353C, IAB 1/6/16), IAB 4/13/16, effective 5/18/16]

[1] April 15, 2009, effective date of Items 27 and 33 to 38 of ARC 7625B delayed 70 days by the Administrative Rules Review Committee at its meeting held April 8, 2009; at its meeting held April 28, 2009, the Committee voted to lift the delay, effective April 29, 2009.

CHAPTER 64
WASTEWATER CONSTRUCTION AND OPERATION PERMITS

[Prior to 7/1/83, DEQ Ch 19]
[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—64.1(455B) Definitions. Rescinded IAB 3/11/09, effective 4/15/09.

567—64.2(455B) Permit to construct.

64.2(1) No person shall construct, install or modify any wastewater disposal system or part thereof or extension or addition thereto without, or contrary to any condition of, a construction permit issued by the director or by a local public works department authorized to issue such permits under 567—Chapter 9, nor shall any connection to a sewer extension in violation of any special limitation specified in a construction permit pursuant to 64.2(10) be allowed by any person subject to the conditions of the permit.

64.2(2) The site for each new wastewater treatment plant or expansion or upgrading of existing facilities must be inspected and approved by the department prior to submission of plans and specifications. Applications must be submitted in accordance with 567—60.4(455B).

64.2(3) Site approval under 64.2(2) shall be based on the criteria contained in the Ten States Standards, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent that separation distances of this subrule conflict with the separation distances of Iowa Code section 455B.134(3)*"f,"* the greater distance shall prevail. The following separation distances from a treatment works shall apply unless a separation distance exception is provided in the "Iowa Wastewater Facilities Design Standards." The separation distance from lagoons shall be measured from the water surface.

a. 1000 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure. If the inhabitable or commercial building is the property of the owner of the proposed treatment facility, or there is written agreement with the owner of the building, the separation criteria shall not apply. Any such written agreement shall be filed with the county recorder and recorded for abstract of title purposes, and a copy submitted to the department.

b. 1000 feet from public shallow wells.

c. 400 feet from public deep wells.

d. 400 feet from private wells.

e. 400 feet from lakes and public impoundments.

f. 25 feet from property lines and rights-of-way.

When the above separation distances cannot be maintained for the expansion, upgrading or replacement of existing facilities, the separation distances shall be maintained at no less than 90 percent of the existing separation distance on the site, providing no data is available indicating that a problem has existed or will be created.

64.2(4) Applications for a construction permit must be submitted to the director in accordance with 567—60.4(455B) at least 120 days in advance of the date of start of construction.

64.2(5) The director shall act upon the application within 60 days of receipt of a complete application by either issuing a construction permit or denying the construction permit in writing unless a longer review period is required and the applicant is so notified in writing. Notwithstanding the 120-day requirement in 64.2(4), construction of the approved system may commence immediately after the issuance of a construction permit.

64.2(6) The construction permit shall expire if construction thereunder is not commenced within one year of the date of issuance thereof. The director may grant an extension of time to commence construction if it is necessary or justified, upon showing of such necessity or justification to the director.

64.2(7) The director may modify or revoke a construction permit for cause which shall include but not be limited to the following:

a. Failure to construct said wastewater disposal system or part thereof in accordance with the approved plans and specifications.

b. Violation of any term or condition of the permit.

c. Obtaining a permit by misrepresentation of facts or failure to disclose fully all material facts.

d. Any change during construction that requires material changes in the approved plans and specifications.

64.2(8) A construction permit shall not be required for the following:

a. Storm sewers or storm water disposal systems that transport only storm water.

b. Any new disposal system or extension or addition to any existing disposal system that receives only domestic or sanitary sewage from a building, housing or occupied by 15 persons or less.

c. A privately owned pretreatment facility, except an anaerobic lagoon, where a treatment unit or units provide partial reduction of the strength or toxicity of the waste stream prior to additional treatment and disposal by another person, corporation, or municipality. However, the department may require that the design basis and construction drawings be filed for information purposes.

64.2(9) Review of applications.

a. Review of applications for construction permits shall be based on the criteria contained in the "Iowa Wastewater Facilities Design Standards," the Ten States Standards, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent of any conflict between the above criteria the "Iowa Wastewater Facilities Design Standards" standards shall prevail.

b. The chapters of the "Iowa Wastewater Facilities Design Standards"* that apply to wastewater facilities projects, and the date of adoption of those chapters are:

Chapter		Date of Adoption
11.	Project submittals	April 25, 1979
12.	Iowa Standards for Sewer Systems	September 6, 1978 (Amended March 28, 1979 and May 20, 1987)
13.	Wastewater pumping stations and force mains	March 19, 1985
14.	Wastewater treatment works	March 22, 1984 (Amended May 20, 1987)
15.	Screening and grit removal	February 18, 1986
16.	Settling	March 22, 1984 (Amended May 20, 1987)
17.	Sludge handling & disposal	March 26, 1980
18.	Biological treatment	
	A. Fixed film media treatment	October 21, 1985
	B. Activated sludge	March 22, 1984
	C. Wastewater treatment ponds (Lagoons)	April 25, 1979 (Amended May 20, 1986 and May 20, 1987)
19.	Supplemental treatment processes	November 13, 1986
20.	Disinfection	February 18, 1986
21.	Land application of wastewater	April 25, 1979

*The design manual as adopted and amended is available upon request to department, also filed with administrative rules coordinator.

c. Variances from the design standards and siting criteria which provide in the judgment of the department for substantially equivalent or improved effectiveness may be requested when there are unique circumstances not found in most projects. The director may issue variances when circumstances are appropriate. The denial of a variance may be appealed to the commission.

d. When reviewing the variance request the director may consider the unique circumstances of the project, direct or indirect environmental impacts, the durability and reliability of the alternative, and the purpose and intent of the rule or standard in question.

e. Circumstances that would warrant consideration of a variance (which provides for substantially equivalent or improved effectiveness) may include the following:

(1) The utilization of new equipment or new process technology that is not explicitly covered by the current design standards.

(2) The application of established and acceptable technologies in an innovative manner not covered by current standards.

(3) It is reasonably clear that the conditions and circumstances which were considered in the adoption of the rule or standard are not applicable for the project in question and therefore the effective purpose of the rule will not be compromised if a variance is granted.

64.2(10) Applications for sanitary sewer extension construction permits shall conform to the Iowa Standards for Sewer Systems, and approval shall be subject to the following:

a. A sanitary sewer extension construction permit may be denied if, at the time of application, the treatment facility treating wastewater from the proposed sewer is not in substantial compliance with its operating permit or if the treatment facility receives wastes in volumes or quantities that exceed its design capacity and interfere with its operation or performance.

If the applicant is operating under a compliance schedule which is being adhered to that leads to resolution of the substantial compliance issues or if the applicant can demonstrate that the problem has been identified, the planning completed, and corrective measures initiated, then the construction permit may be granted.

b. A sanitary sewer extension construction permit may be denied if bypassing has occurred at the treatment facility, except when any of the following conditions are being met:

(1) The bypassing is due to a combined sewer system, and the facility is in compliance with a long-term CSO control plan approved by the department.

(2) The bypassing occurs as a result of a storm with an intensity or duration greater than that of a storm with a return period of five years. (See App. A)

(3) The department determines that timely actions are being taken to eliminate the bypassing.

c. A sanitary sewer extension construction permit may be denied if an existing downstream sewer is or will be overloaded or surcharged, resulting in bypassing, flooded basements, or overflowing manholes, unless:

(1) The bypassing or flooding is the result of a precipitation event with an intensity or duration greater than that of a storm with a return period of two years. (See App. A); or

(2) The system is under full-scale facility planning (I/I and SSES) and the applicant provides a schedule that is approved by the department for rehabilitating the system to the extent necessary to handle the additional loadings.

d. Potential loads. Construction permits may be granted for sanitary sewer extensions that are sized to serve future loads that would exceed the capacity of the existing treatment works. However, initial connections shall be limited to the load that can be handled by the existing treatment works. The department will determine this load and advise the applicant of the limit. This limitation will be in effect until additional treatment capacity has been constructed.

64.2(11) Certification of completion. Within 30 days after completion of construction, installation or modification of any wastewater disposal system or part thereof or extension or addition thereto, the permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved plans and specifications.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—64.3(455B) Permit to operate.

64.3(1) Except as otherwise provided in this subrule, in 567—Chapter 65, and in 567—Chapter 69, no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the director. An operation permit is not required for the following:

a. A private sewage disposal system which does not discharge into, or have the potential to reach, a designated water of the state or subsurface drainage tile (NOTE: private sewage disposal systems under this exemption are regulated under 567—Chapter 69).

b. A semipublic sewage disposal system, the construction of which has been approved by the department and which does not discharge into a water of the state.

c. A pretreatment system, the effluent of which is to be discharged directly to another disposal system for final treatment and disposal.

d. A discharge from a geothermal heat pump which does not reach a navigable water.

e. Water well construction and well services related discharge that does not reach a water of the United States as defined in 40 CFR Part 122.2.

f. Discharges from the application of biological pesticides and chemical pesticides where the discharge does not reach a water of the United States as defined in 40 CFR Part 122.2.

g. Agricultural storm water discharges. This exclusion applies only to the operation permit requirement set forth in this rule and does not alter other requirements of law, including but not limited to any applicable requirements of Iowa Code chapters 459 and 459A.

64.3(2) Rescinded, effective 2/20/85.

64.3(3) The owner of any disposal system or part thereof in existence before August 21, 1973, for which a permit has been previously granted by the Iowa department of health or the Iowa department of environmental quality shall submit such information as the director may require to determine the conformity of such system and its operation with the rules of the department by no later than 60 days after the receipt of a request for such information from the director. If the director determines that the disposal system does not conform to the rules of the department, the director may require the owner to make such modifications as are necessary to achieve compliance. A construction permit shall be required, pursuant to 64.2(1), prior to any such modification of the disposal system.

64.3(4) Applications.

a. Individual permit. Except as provided in 64.3(4)*"b,"* applications for operation permits required under 64.3(1) shall be made on forms provided by the department, as noted in 567—subrule 60.3(2). The application for an operation permit under 64.3(1) shall be filed pursuant to 567—subrule 60.4(2). Permit applications for a new discharge of storm water associated with construction activity as defined in 567—Chapter 60 under "storm water discharge associated with industrial activity" must be submitted at least 60 days before the date on which construction is to commence. Upon completion of a tentative determination with regard to the permit application as described in 64.5(1)*"a,"* the director shall issue operation permits for applications filed pursuant to 64.3(1) within 90 days of the receipt of a complete application unless the application is for an NPDES permit or unless a longer period of time is required and the applicant is so notified.

b. General permit. A Notice of Intent for coverage under a general permit must be made on the appropriate form provided by the department listed in 567—subrule 60.3(2) and in accordance with 567—64.6(455B). A Notice of Intent must be submitted to the department according to the following:

(1) For existing storm water discharge associated with industrial activity, with the exception of discharges identified in subparagraphs (2) and (3) of this paragraph, on or before October 1, 1992.

(2) For any existing storm water discharge associated with industrial activity from a facility or construction site that is owned or operated by a municipality with a population of less than 100,000 other than an airport, power plant or uncontrolled sanitary landfill, on or before March 10, 2003.

For purposes of this subparagraph, municipality means city, town, borough, county, parish, district, association, or other public body created by or under state law. The entire population served by the public body shall be used in the determination of the population.

(3) For any existing storm water discharge associated with small construction activity on or before March 10, 2003.

(4) For storm water discharge associated with industrial activity which initiates operation after October 1, 1992, with the exception of discharges identified in subparagraphs (2) and (3) of this paragraph, where storm water discharge associated with industrial activity could occur as defined in rule 567—60.2(455B).

(5) For any private sewage disposal system installed after July 1, 1998, where subsoil discharge is not possible.

(6) For any discharge, except a storm water only discharge, from a mining or processing facility after July 18, 2001.

(7) For the discharge of biological pesticides and chemical pesticides which leave a residue to a water of the United States (as defined in 40 CFR Part 122.2) that meet any of the thresholds established in General Permit No. 7 after March 30, 2011.

64.3(5) Requirements for industries that discharge to another disposal system except storm water point sources.

a. The director may require any person discharging wastes to a publicly or privately owned disposal system to submit information similar to that required in an application for an operation permit, but no operation permit is required for such discharge.

Significant industrial users as defined in 567—Chapter 60 must submit a treatment agreement which meets the following criteria:

(1) The agreement must be on the treatment agreement form, number 542-3221, as provided by the department; and

(2) Must identify and limit the monthly average and the daily maximum quantity of compatible and incompatible pollutants discharged to the disposal system and the variations in daily flow; and

(3) Be signed and dated by the significant industrial user and the owner of the disposal system accepting the wastewater; and

(4) Provide that the quantities to be discharged to the disposal system must be in accordance with the applicable standards and requirements in 567—Chapter 62.

b. A significant industrial user must submit a new treatment agreement form 60 days in advance of a proposed expansion, production increase or process modification that may result in discharges of sewage, industrial waste, or other waste in excess of the discharge stated in the existing treatment agreement. An industry that would become a significant industrial user as a result of a proposed expansion, production increase or process modification shall submit a treatment agreement form 60 days in advance of the proposed expansion, production increase or process modification.

c. A treatment agreement form must be submitted at least 180 days before a new significant industrial user proposes to discharge into a wastewater disposal system. The owner of a wastewater disposal system shall notify the director by submitting a complete treatment agreement to be received at least 10 days prior to making any commitment to accept waste from a proposed new significant industrial user. However, the department may notify the owner that verification of the data in the treatment agreement may take longer than 10 days and advise that the owner should not enter into a commitment until the data is verified.

d. A treatment agreement form for each significant industrial user must be submitted with the facility plan or preliminary engineering report for the construction or modification of a wastewater disposal system. These agreements will be used in determining the design basis of the new or upgraded system.

e. Treatment agreement forms from significant industrial users shall be required as a part of the application for a permit to operate the wastewater disposal system receiving the wastes from the significant industrial user.

64.3(6) Rescinded, effective 7/23/86.

64.3(7) Operation permits may be granted for any period of time not to exceed five years. Applications for renewal of an operation permit must be submitted to the department 180 days in advance of the date the permit expires. General permits will be issued for a period not to exceed five years. Each permit to be renewed shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

64.3(8) Identity of signatories of permit applications. The person who signs the application for a permit shall be:

a. Corporations. In the case of corporations, a responsible corporate officer. A responsible corporate officer means:

(1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or

(2) The manager of manufacturing, production, or operating facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. Partnerships. In the case of a partnership, a general partner.

c. Sole proprietorships. In the case of a sole proprietorship, the proprietor.

d. Municipal, state, federal, or other public agency. In the case of a municipal, state, or other public facility, either the principal executive officer or the ranking elected official. A principal executive officer of a public agency includes:

(1) The chief executive officer of the agency; or

(2) A senior executive officer having responsibility for the overall operations of a unit of the agency.

e. Storm water discharge associated with industrial activity from construction activities. In the case of a storm water discharge associated with construction activity, either the owner of the site or the general contractor.

f. Certification. Any person signing a document under paragraph *"a"* to *"d"* of this subrule shall make the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for known violations.

The person who signs NPDES reports shall be a person described in this subrule, except that in the case of a corporation or a public body, monitoring reports required under the terms of the permit may be submitted by a duly authorized representative of the person described in this subrule. A person is a duly authorized representative if the authorization is made in writing by a person described in this subrule and the authorization specifies an individual or position having responsibility for the overall operation of the regulated facility, such as plant manager, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the corporation.

64.3(9) When necessary to comply with present standards which must be met at a future date, an operation permit shall include a schedule for the alteration of the permitted facility to meet said standards in accordance with 64.7(4) and 64.7(5). Such schedules shall not relieve the permittee of the duty to obtain a construction permit pursuant to 567—64.2(455B). When necessary to comply with a pretreatment standard or requirement which must be met at a future date, a significant industrial user will be given a compliance schedule for meeting those requirements.

64.3(10) Operation permits shall contain such conditions as are deemed necessary by the director to ensure compliance with all applicable rules of the department, including monitoring and reporting conditions, to protect the public health and beneficial uses of state waters, and to prevent water pollution from waste storage or disposal operations.

64.3(11) The director may amend, revoke and reissue, or terminate in whole or in part any individual operation permit or coverage under a general permit for cause. Except for general permits, the director may modify in whole or in part any individual operation permit for cause. A variance or modification to the terms and conditions of a general permit shall not be granted. If a variance or modification to a general permit is desired, the applicant must apply for an individual permit following the procedures in 64.3(4)*"a."*

a. Permits may be amended, revoked and reissued, or terminated for cause either at the request of any interested person (including the permittee) or upon the director's initiative. All requests shall be in writing and shall contain facts or reasons supporting the request.

b. Cause under this subrule includes the following:

(1) Violation of any term or condition of the permit.

(2) Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(4) Failure to submit such records and information as the director shall require both generally and as a condition of the permit in order to ensure compliance with the discharge conditions specified in the permit.

(5) Failure or refusal of an NPDES permittee to carry out the requirements of 64.7(7)*"c."*

(6) Failure to provide all the required application materials or appropriate fees.

(7) A request for a modification of a schedule of compliance, an interim effluent limitation, or the minimum monitoring requirements pursuant to 567—paragraph 60.4(2)*"b."*

(8) Causes listed in 40 CFR 122.62 and 122.64.

c. The permittee shall furnish to the director, within a reasonable time, any information that the director may request to determine whether cause exists for amending, revoking and reissuing, or terminating a permit, including a new permit application.

d. The filing of a request by an interested person for an amendment, revocation and reissuance, or termination does not stay any permit condition.

e. If the director decides the request is not justified, the director shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, hearings, or appeals.

f. Draft permits.

(1) If the director tentatively decides to amend, revoke and reissue, or terminate a permit, a draft permit shall be prepared according to 64.5(1).

(2) When a permit is amended under this paragraph, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the permit.

(3) When a permit is revoked and reissued under this paragraph, the entire permit is reopened just as if the permit had expired and was being reissued.

(4) If the permit amendment falls under the definition of "minor amendment" in 567—60.2(455B), the permit may be amended without a draft permit or public notice.

(5) During any amendment, revocation and reissuance, or termination proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

64.3(12) No permit may be issued:

a. When the applicant is required to obtain certification under Section 401 of the Clean Water Act and that certification has not been obtained or waived;

b. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; or

c. To a new source or new discharger if the discharge from its construction or operation will cause or contribute to a violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge to a water segment which does not meet applicable water quality standards must demonstrate, before the close of the public comment period for a draft NPDES permit, that:

(1) There is sufficient remaining load in the water segment to allow for the discharge; and

(2) The existing dischargers to the segment are subject to compliance schedules designed to bring the segment into compliance with water quality standards.

The director may waive the demonstration if the director already has adequate information to demonstrate (1) and (2).

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 8520B**, IAB 2/10/10, effective 3/17/10; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 0529C**, IAB 12/12/12, effective 1/16/13; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—64.4(455B) Issuance of NPDES permits.

64.4(1) *Individual permit.* An individual NPDES permit is required when there is a discharge of a pollutant from any point source into navigable waters. An NPDES permit is not required for the following:

a. Reserved.

b. Discharges of dredged or fill material into navigable waters which are regulated under Section 404 of the Act;

c. The introduction of sewage, industrial wastes or other pollutants into a POTW by indirect dischargers. (This exclusion from requiring an NPDES permit applies only to the actual addition of materials into the subsequent treatment works. Plans or agreements to make such additions in the future do not relieve dischargers of the obligation to apply for and receive permits until the discharges of pollutants to navigable waters are actually eliminated. It also should be noted that, in all appropriate cases, indirect discharges shall comply with pretreatment standards promulgated by the administrator pursuant to Section 307(b) of the Act and adopted by reference by the commission);

d. Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances);

e. Any introduction of pollutants from non-point source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to the following:

(1) Discharges from concentrated animal feeding operations as defined in 40 CFR 122.23;

(2) Discharges from concentrated aquatic animal production facilities as defined in 40 CFR 122.24;

(3) Discharges to aquaculture projects as defined in 40 CFR 122.25;

(4) Discharges from silvicultural point sources as defined in 40 CFR 122.27;

f. Return flows from irrigated agriculture; and

g. Water transfers, which are defined as activities that convey or connect navigable waters without subjecting the transferred water to intervening industrial, municipal, or commercial use.

64.4(2) *General permit.*

a. The director may issue general permits which are consistent with 64.4(2)*"b"* and the requirements specified in 567—64.6(455B), 567—64.7(455B), subrule 64.8(2), and 567—64.9(455B) for the following activities:

(1) Storm water point sources requiring an NPDES permit pursuant to Section 402(p) of the federal Clean Water Act and 40 CFR 122.26.

(2) Private sewage disposal system discharges permitted under 567—Chapter 69 where subsoil discharge is not possible as determined by the administrative authority.

(3) Discharges from water well construction and related well services where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.

(4) For any discharge, except a storm water only discharge, from a mining or processing facility.

(5) Discharges from the application of biological pesticides and chemical pesticides which leave a residue where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.

b. Each general permit issued by the department must:

(1) Be adopted as an administrative rule in accordance with Iowa Code chapter 17A, the Administrative Procedure Act. Each proposed permit will be accompanied by a fact sheet setting forth the principal facts and methodologies considered during permit development,

(2) Correspond to existing geographic or political boundaries, and

(3) Be identified in 567—64.15(455B).

c. If an NPDES permit is required for an activity covered by a general permit, the applicant may seek either general permit coverage or an individual permit. Procedures and requirements for obtaining an individual NPDES permit are detailed in 64.3(4)*"a."* Procedures for filing a Notice of Intent for coverage under a general permit are described in 567—64.6(455B) "Completing a Notice of Intent for Coverage Under a General Permit."

64.4(3) *Effect of a permit.*

a. Except for any toxic effluent standards and prohibitions imposed under Section 307 of the Act and standards for sewage sludge use or disposal under Section 405(d) of the Act, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with Sections 301, 302, 306, 307, 318, 403 and 405(a)-(b) of the Act, and equivalent limitations and standards set out in 567—Chapters 61 and 62. However, a permit may be terminated during its term for cause as set forth

in 64.3(11). Compliance with a permit condition which implements a particular standard for sewage sludge use or disposal shall be an affirmative defense in any enforcement action brought for a violation of that standard for sewage sludge use or disposal.

b. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 8520B**, IAB 2/10/10, effective 3/17/10; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—64.5(455B) Notice and public participation in the individual NPDES permit process.

64.5(1) *Formulation of tentative determination.* The department shall make a tentative determination to issue or deny an operation or NPDES permit for the discharge described in a permit application in advance of the public notice as described in 64.5(2).

a. If the tentative determination is to issue an NPDES permit, the department shall prepare a permit rationale for each draft permit pursuant to 64.5(3) and a draft permit. The draft permit shall include the following:

(1) Effluent limitations identified pursuant to 64.7(2) and 64.7(3), for those pollutants proposed to be limited.

(2) If necessary, a proposed schedule of compliance, including interim dates and requirements, identified pursuant to 64.7(4) and 64.7(5), for meeting the effluent limitations and other permit requirements.

(3) Any other special conditions (other than those required in 64.7(7)) which will have a significant impact upon the discharge described in the permit application.

b. If the tentative determination is to deny an NPDES permit, the department shall prepare a notice of intent to deny the permit application. The notice of intent to deny an application will be placed on public notice as described in 64.5(2).

c. If the tentative determination is to issue an operation permit (non-NPDES permit), the department shall prepare a final permit and transmit the final permit to the applicant. The applicant will have 30 days to appeal the final operation permit.

d. If the tentative determination is to deny an operation permit (non-NPDES permit), no public notice is required. The department shall send written notice of the denial to the applicant. The applicant will have 30 days to appeal the denial.

64.5(2) *Public notice for NPDES permits.*

a. Prior to the issuance of an NPDES permit, a major NPDES permit amendment, or the denial of a permit application for an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the procedures of subparagraphs (1) to (4).

(1) The public notice for a draft NPDES permit or major permit amendment shall be circulated by the applicant within the geographical areas of the proposed discharge by posting the public notice in public places of the city nearest the premises of the applicant in which the effluent source is located and by posting the public notice near the entrance to the applicant's premises and in nearby places.

(2) The public notice for the denial of a permit application shall be sent to the applicant and circulated by the department within the geographical areas of the proposed discharge by publishing the public notice in local newspapers and periodicals or, if appropriate, in a newspaper of general circulation.

(3) The public notice shall be sent by the department to any person upon request.

(4) Upon request, the department shall add the name of any person or group to the distribution list to receive copies of all public notices concerning the tentative determinations with respect to the permit applications within the state or within a certain geographical area and shall send a copy of all public notices to such persons.

b. In addition to the requirements in paragraph 64.5(2)*"a,"* prior to the issuance of a major NPDES permit or a major permit amendment to a major NPDES permit, the public notice shall be published by

the applicant in local newspapers and periodicals or, if appropriate, in a newspaper of general circulation. Publication of a public notice is not required prior to the issuance of the following:

(1) A minor NPDES permit,

(2) A minor permit amendment, or

(3) A major permit amendment to a minor NPDES permit.

Major and minor NPDES permits and major and minor permit amendments are defined in 567—60.2(455B).

c. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the permit application and request a public hearing pursuant to 64.5(6). Written comments may be submitted by paper or electronic means. All comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director's final determinations with respect to the permit application. The period for comment may be extended at the discretion of the department. Pertinent and significant comments received during either the original comment period or an extended comment period shall be responded to in a responsiveness summary pursuant to 64.5(8).

d. The contents of the public notice of a draft NPDES permit, a major permit amendment, or the denial of a permit application for an NPDES permit shall include at least the following:

(1) The name, address, and telephone number of the department.

(2) The name and address of each applicant.

(3) A brief description of each applicant's activities or operations which result in the discharge described in the permit application (e.g., municipal waste treatment plant, corn wet milling plant, or meat packing plant).

(4) The name of the waterway to which each discharge of the applicant is made and a short description of the location of each discharge of the applicant on the waterway indicating whether such discharge is a new or an existing discharge.

(5) A statement of the department's tentative determination to issue or deny an NPDES permit for the discharge or discharges described in the permit application.

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph *"b"* of this subrule, procedures for requesting a public hearing and any other means by which interested persons may influence or comment upon those determinations.

(7) The address, telephone number, and E-mail address of places at which interested persons may obtain further information, request a copy of the tentative determination and any associated documents prepared pursuant to 64.5(1), request a copy of the permit rationale described in 64.5(3), and inspect and copy permit forms and related documents.

e. No public notice is required for a minor permit amendment, including an amendment to correct typographical errors, include more frequent monitoring requirements, revise interim compliance schedule dates, change the owner name or address, include a local pretreatment program, or remove a point source outfall that does not result in the discharge of pollutants from other outfalls.

f. No public notice is required when a request for a permit amendment or a request for a termination of a permit is denied. The department shall send written notice of the denial to the requester and the permittee only. No public notice is required if an applicant withdraws a permit application.

64.5(3) *Permit rationales and notices of intent to deny.*

a. When the department has made a determination to issue an NPDES permit as described in 64.5(1), the department shall prepare and, upon request, shall send to any person a permit rationale with respect to the application described in the public notice. The contents of such permit rationales shall include at least the following information:

(1) A detailed description of the location of the discharge described in the permit application.

(2) A quantitative description of the discharge described in the permit application which includes:

1. The average daily discharge in pounds per day of any pollutants which are subject to limitations or prohibitions under 64.7(2) or Section 301, 302, 306 or 307 of the Act and regulations published thereunder; and

2. For thermal discharges subject to limitation under the Act, the average and maximum summer and winter discharge temperatures in degrees Fahrenheit.

(3) The tentative determinations required under 64.5(1).

(4) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards applicable to the receiving waters and effluent standards and limitations applicable to the proposed discharge.

(5) An explanation of the principal facts and the significant factual, legal, methodological, and policy questions considered in the preparation of the draft permit.

(6) Any calculations or other necessary explanation of the derivation of effluent limitations.

b. When the department has made a determination to deny an application for an NPDES permit as described in 64.5(1), the department shall prepare and, upon request, shall send to any person a notice of intent to deny with respect to the application described in the public notice. The contents of such notice of intent to deny shall include at least the following information:

(1) A detailed description of the location of the discharge described in the permit application; and

(2) A description of the reasons supporting the tentative decision to deny the permit application.

c. When the department has made a determination to issue an operation permit as described in 64.5(1), the department shall prepare a short description of the waste disposal system and the reasons supporting the decision to issue an operation permit. The description shall be sent to the operation permit applicant upon request.

d. When the department has made a determination to deny an application for an operation permit as described in 64.5(1), the department shall prepare and send written notice of the denial to the applicant only. The written denial shall include a description of the reasons supporting the decision to deny the permit application.

e. Upon request, the department shall add the name of any person or group to a distribution list to receive copies of permit rationales and notices of intent to deny and shall send a copy of all permit rationales and notices of intent to deny to such persons or groups.

64.5(4) *Notice to other government agencies*. Prior to the issuance of an NPDES permit, the department shall notify other appropriate government agencies of each complete application for an NPDES permit and shall provide such agencies an opportunity to submit their written views and recommendations. Notifications may be distributed and written views or recommendations may be submitted by paper or electronic means. Procedures for such notification shall include the procedures of paragraphs *"a"* to *"f."*

a. At the time of issuance of public notice pursuant to 64.5(2), the department shall transmit the public notice to any other state whose waters may be affected by the issuance of the NPDES permit. Each affected state shall be afforded an opportunity to submit written recommendations to the department and to the regional administrator which the director may incorporate into the permit if issued. Should the director fail to incorporate any written recommendation thus received, the director shall provide to the affected state or states and to the regional administrator a written explanation of the reasons for failing to accept any written recommendation.

b. At the time of issuance of public notice pursuant to 64.5(2), the department shall send the public notice for proposed discharges (other than minor discharges) into navigable waters to the appropriate district engineer of the army corps of engineers.

(1) The department and the district engineer for each corps of engineers district within the state may arrange for: notice to the district engineer of minor discharges; waiver by the district engineer of the right to receive public notices with respect to classes, types, and sizes within any category of point sources and with respect to discharges to particular navigable waters or parts thereof; and any procedures for the transmission of forms, period of comment by the district engineer (e.g., 30 days), and for objections of the district engineer.

(2) A copy of any written agreement between the department and a district engineer shall be forwarded to the regional administrator and shall be available to the public for inspection and copying in accordance with 567—Chapter 2.

c. Upon request, the department shall send the public notice to any other federal, state, or local agency, or any affected county, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to 64.5(6).

d. The department shall send the public notice for any proposed NPDES permit within the geographical area of a designated and approved management agency under Section 208 of the Act (33 U.S.C.1288).

e. The department shall send the public notice to the local board of health for the purpose of assisting the applicant in coordinating the applicable requirements of the Act and Iowa Code chapter 455B with any applicable requirements of the local board of health.

f. Upon request, the department shall provide any of the entities listed in 64.5(4)*"a"* through *"e"* with a copy of the permit rationale, permit application, or proposed permit prepared pursuant to 64.5(1).

64.5(5) *Public access to NPDES information.* The records of the department connected with NPDES permits are available for public inspection and copying to the extent provided in 567—Chapter 2.

64.5(6) *Public hearings on proposed NPDES permits.* The applicant, any affected state, the regional administrator, or any interested agency, person or group of persons may request or petition for a public hearing with respect to an NPDES application. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 64.5(2)*"b"* and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the proposed discharge, or other appropriate area in the discretion of the director, and may, as appropriate, consider related groups of permit applications.

64.5(7) *Public notice of public hearings on proposed NPDES permits.*

a. Public notice of any hearing held pursuant to 64.5(6) shall be circulated at least as widely as was the notice of the tentative determinations with respect to the permit application.

(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;

(2) Notice shall be sent to all persons and government agencies which received a copy of the notice for the permit application;

(3) Notice shall be mailed to any person or group upon request; and

(4) Notice pursuant to subparagraphs (1) and (2) of this paragraph shall be made at least 30 days in advance of the hearing.

b. The contents of public notice of any hearing held pursuant to 64.5(6) shall include at least the following:

(1) The name, address, and telephone number of the department;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) The name of the water body to which each discharge is made and a short description of the location of each discharge to the water body;

(4) A brief reference to the public notice issued for each NPDES application, including the date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the person or persons requesting the hearing;

(8) The address and telephone number of the premises where interested persons may obtain further information, request a copy of the draft NPDES permit prepared pursuant to 64.5(1), request a copy of the permit rationale prepared pursuant to 64.5(3), and inspect and copy permit forms and related documents;

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed; and

(10) The final date for submission of comments (paper or electronic) regarding the tentative determinations with respect to the permit application.

64.5(8) *Response to comments.* At the time a final NPDES permit is issued, the director shall issue a response to significant and pertinent comments in the form of a responsiveness summary. A copy of the responsiveness summary shall be sent to the permit applicant, and the document shall be made available to the public upon request. The responsiveness summary shall:

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the changes; and

b. Briefly describe and respond to all significant and pertinent comments on the draft permit raised during the public comment period provided for in the public notice or during any hearing. Comments on a draft permit may be submitted by paper or electronic means or orally at a public hearing.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 0529C**, IAB 12/12/12, effective 1/16/13; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—64.6(455B) Completing a Notice of Intent for coverage under a general permit.

64.6(1) *Contents of a complete Notice of Intent.* An applicant proposing to conduct activities covered by a general permit shall file a complete Notice of Intent by submitting to the department materials required in paragraphs *"a"* to *"c"* of this subrule except that a Notice of Intent is not required for discharges authorized under General Permit No. 6.

a. Notice of Intent Application Form. The following Notice of Intent forms must be completed in full.

(1) General Permit No. 1 "Storm Water Discharge Associated with Industrial Activity," Form 542-1415.

(2) General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities," Form 542-1415.

(3) General Permit No. 3 "Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities," Form 542-1415.

(4) General Permit No. 4 "Discharge from On-Site Wastewater Treatment and Disposal Systems," Form 542-1541.

(5) General Permit No. 5 "Discharge from Mining and Processing Facilities," Form 542-4006.

(6) General Permit No. 7, "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides."

b. General permit fee. The general permit fee according to the schedule in 567—64.16(455B) payable to the Department of Natural Resources.

c. Public notification. The following public notification requirements must be completed for the corresponding general permit.

(1) General Permits No. 1, No. 2 and No. 3. A demonstration that a public notice was published in at least one newspaper with the largest circulation in the area in which the facility is located or the activity will occur. The newspaper notice shall, at the minimum, contain the following information:

PUBLIC NOTICE OF STORM WATER DISCHARGE

The (applicant name) plans to submit a Notice of Intent to the Iowa Department of Natural Resources to be covered under NPDES General Permit (select the appropriate general permit—No. 1 "Storm Water Discharge Associated with Industrial Activity" or General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities"). The storm water discharge will be from (description of industrial activity) located in (¼ section, township, range, county). Storm water will be discharged from (number) point source(s) and will be discharged to the following streams: (stream name(s)).

Comments may be submitted to the Storm Water Discharge Coordinator, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034. The public may review the Notice of Intent from 8 a.m. to 4:30 p.m., Monday through Friday, at the above address after it has been received by the department.

(2) General Permits No. 4, No. 5, No. 6, and No. 7. There are no public notification requirements for these permits.

64.6(2) *Authorization to discharge under a general permit.* Upon the submittal of a complete Notice of Intent in accordance with 64.6(1) and 64.3(4)*"b,"* the applicant is authorized to discharge after evaluation of the Notice of Intent by the department is complete and the determination has been made that the contents of the Notice of Intent satisfy the requirements of 567—Chapter 64. The discharge authorization date for all storm water discharges associated with industrial activity that are in existence on or before October 1, 1992, shall be October 1, 1992. The applicant will receive notification by the department of coverage under the general permit. If any of the items required for filing a Notice of Intent specified in 64.6(1) are missing, the department will consider the application incomplete and will notify the applicant of the incomplete items.

64.6(3) *General permit suspension or revocation.* In addition to the causes for suspension or revocation which are listed in 64.3(11), the director may suspend or revoke coverage under a general permit issued to a facility or a class of facilities for the following reasons and require the applicant to apply for an individual NPDES permit in accordance with 64.3(4)*"a"*:

a. The discharge would not comply with Iowa's water quality standards pursuant to 567—Chapter 61, or

b. The department finds that the activities associated with a Notice of Intent filed with the department do not meet the conditions of the general permit. The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application, or

c. The department finds that water well construction and well service discharge are not managed in a manner consistent with the conditions specified in General Permit No. 6, or

d. The department finds that discharges from biological pesticides and chemical pesticides which leave a residue are not managed in a manner consistent with the conditions specified in General Permit No. 7.

64.6(4) *Eligibility for individual permit holders.* A person holding an individual NPDES permit for an activity covered by a general permit may apply for coverage under a general permit upon expiration of the individual permit and by filing a Notice of Intent according to procedures described in 64.3(4)*"b."*

64.6(5) *Filing a Notice of Discontinuation.* A notice to discontinue the activity covered by the NPDES general permit shall be made in writing to the department 30 days prior to or after discontinuance of the discharge. For storm water discharge associated with industrial activity for construction activities, the discharge will be considered as discontinued when "final stabilization" has been reached. Final stabilization means that all soil-disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of 70 percent for the area has been established or equivalent stabilization measures have been employed.

The notice of discontinuation shall contain the following:

a. The name of the facility to which the permit was issued,

b. The general permit number and permit authorization number,

c. The date the permitted activity was, or will be, discontinued, and

d. A signed certification in accordance with the requirements in the general permit.

64.6(6) *Transfer of ownership—construction activity part of a larger common plan of development.* For construction activity which is part of a larger common plan of development, such as a housing or commercial development project, in the event a permittee transfers ownership of all or any part of property subject to NPDES General Permit No. 2, both the permittee and transferee shall be responsible for compliance with the provisions of the general permit for that portion of the project which has been transferred, including when the transferred property is less than one acre in area, provided that:

a. The transferee is notified in writing of the existence and location of the general permit and pollution prevention plan, and of the transferee's duty to comply, and proof of such notice is included with the notice to the department of the transfer.

b. If the transferee agrees, in writing, to become the sole responsible permittee for the property which has been transferred, then the transferee shall be solely responsible for compliance with the provisions of the general permit for the transferred property.

c. If the transferee agrees, in writing, to obtain coverage under NPDES General Permit No. 2 for the property which has been transferred, then the transferee is required to obtain coverage under NPDES General Permit No. 2 for the transferred property. After the transferee has agreed, in writing, to obtain coverage under NPDES General Permit No. 2 for the transferred property, the authorization issued under NPDES General Permit No. 2 to the transferor for the transferred property shall be considered by the department as not providing NPDES permit coverage for the transferred property and the transferor's authorization issued under NPDES General Permit No. 2 for, and only for, the transferred property shall be deemed by the department as being discontinued without further action of the transferor.

d. All notices as described in this subrule shall contain the name of the development as submitted to the department in the original Notice of Intent and as modified by any subsequent written notices of name changes submitted to the department, the authorization number assigned to the authorization by the department, the legal description of the transferred property including lot number, if any, and any other information necessary to precisely locate the transferred property and to establish the legality of the document.

[**ARC 8520B**, IAB 2/10/10, effective 3/17/10; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 1337C**, IAB 2/19/14, effective 3/26/14; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—64.7(455B) Terms and conditions of NPDES permits.

64.7(1) *Prohibited discharges.* No NPDES permit may authorize any of the discharges prohibited by 567—62.1(455B).

64.7(2) *Application of effluent, pretreatment and water quality standards and other requirements.* Each NPDES permit shall include any of the following that is applicable:

a. An effluent limitation guideline promulgated by the administrator under Sections 301 and 304 of the Act and adopted by reference by the commission in 567—62.4(455B).

b. A standard of performance for a new source promulgated by the administrator under Section 306 of the Act and adopted by reference by the commission in 567—62.4(455B).

c. An effluent standard, effluent prohibition or pretreatment standard promulgated by the administrator under Section 307 of the Act and adopted by reference by the commission in 567—62.4(455B) or 567—62.5(455B).

d. A water quality related effluent limitation established by the administrator pursuant to Section 302 of the Act.

e. Prior to promulgation by the administrator of applicable effluent and pretreatment standards under Sections 301, 302, 306, and 307 of the Act, such conditions as the director determines are necessary to carry out the provisions of the Act.

f. Any other limitation, including those:

(1) Necessary to meet water quality standards, treatment or pretreatment standards, or schedules of compliance established pursuant to any Iowa law or regulation, or to implement the antidegratation policy in 567—subrule 61.2(2); or

(2) Necessary to meet any other federal law or regulation; or

(3) Required to implement any applicable water quality standards; or

(4) Any legally applicable requirement necessary to implement total maximum daily loads established pursuant to Section 303(d) of the Act and incorporated in the continuing planning process approved under Section 303(e) of the Act and any regulations and guidelines issued pursuant thereto.

g. Limitations must control all pollutants or pollutant parameters which the director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including narrative criteria, in 567—Chapter 61. When

the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion of the water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.

h. Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to Section 208(b) of the Act.

In any case where an NPDES permit applies to effluent standards and limitations described in paragraph *"a," "b," "c," "d," "e," "f," "g,"* or *"h,"* the director must state that the discharge authorized by the permit will not violate applicable water quality standards and must have prepared some verification of that statement. In any case where an NPDES permit applies any more stringent effluent limitation, described in 64.7(2)*"f"*(1) or *"g,"* based upon applicable water quality standards, a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

64.7(3) *Effluent limitations in issued NPDES permits.* In the application of effluent standards, and limitations, water quality standards, and other legally applicable requirements, pursuant to 64.7(2), the director shall, for each issued NPDES permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight). The director may, in addition to the specification of daily quantitative limitations by weight, specify other limitations such as average or maximum concentration limits, for the level of pollutants authorized in the discharge.

[COMMENT. The manner in which effluent limitations are expressed will depend upon the nature of the discharge. Continuous discharges shall be limited by daily loading figures and, where appropriate, may be limited as to concentration or discharge rate (e.g., for toxic or highly variable continuous discharges). Batch discharges should be more particularly described and limited in terms of (i) frequency (e.g., to occur not more than once every three weeks), (ii) total weight (e.g., not to exceed 300 pounds per batch discharge), (iii) maximum rate of discharge of pollutants during the batch discharge (e.g., not to exceed 2 pounds per minute), and (iv) prohibition or limitation by weight, concentration, or other appropriate measure of specified pollutants (e.g., shall not contain at any time more than 0.1 ppm zinc or more than ¼ pound of zinc in any batch discharge). Other intermittent discharges, such as recirculation blowdown, should be particularly limited to comply with any applicable water quality standards and effluent standards and limitations.]

64.7(4) *Schedules of compliance in issued NPDES permits.* The director shall follow the following procedure in setting schedules in NPDES permit conditions to achieve compliance with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements.

a. With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, or other legally applicable requirements listed in 64.7(2)*"f"* and 64.7(2)*"g,"* the permittee shall be required to take specific steps to achieve compliance with: applicable effluent standards and limitations; if more stringent, water quality standards; or if more stringent, legally applicable requirements listed in 64.7(2)*"f"* and 64.7(2)*"g."* In the absence of any legally applicable schedule of compliance, such steps shall be achieved in the shortest, reasonable period of time, such period to be consistent with the guidelines and requirements of the Act.

b. In any case where the period of time for compliance specified in paragraph 64.7(4)*"a"* exceeds one year, a schedule of compliance shall be specified in the permit which shall set forth interim requirements and the dates for their achievement; in no event shall more than one year elapse between interim dates. If the time necessary for completion of the interim requirements (such as the construction of a treatment facility) is more than one year and is not readily divided into stages for completion, interim dates shall be specified for the submission of reports of progress toward completion of the interim requirement.

[COMMENT. Certain interim requirements such as the submission of preliminary or final plans often require less than one year, and thus a shorter interval should be specified. Other requirements such as the construction of treatment facilities may require several years for completion and may not readily subdivide into one-year intervals. Long-term interim requirements should nonetheless be subdivided

into intervals not longer than one year at which the permittee is required to report progress to the director pursuant to 64.7(4)*"c."*]

c. Either before or up to 14 days following each interim date and the final date of compliance the permittee shall provide the department with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

d. On the last day of the months of February, May, August, and November, the director shall transmit to the regional administrator a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to comply with an interim or final requirement or to notify the department of compliance or noncompliance with each interim or final requirement (as required pursuant to paragraph *"c"* of this subrule). Such list shall be available to the public for inspection and copying and shall contain at least the following information with respect to each instance of noncompliance:

(1) Name and address of each noncomplying permittee.

(2) A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, two-week delay in commencement of construction of treatment facility; failure to notify of compliance with interim requirement to complete construction by June 30).

(3) A short description of any actions or proposed actions by the permittee to comply or by the director to enforce compliance with the interim or final requirement.

(4) Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g., construction delayed due to materials shortage, plan approval delayed by objections).

e. If a permittee fails or refuses to comply with an interim or final requirement in an NPDES permit such noncompliance shall constitute a violation of the permit for which the director may, pursuant to 567—Chapters 7 and 60, modify, suspend or revoke the permit or take direct enforcement action.

64.7(5) *Schedules of compliance in issued NPDES permits for disadvantaged communities.* If compliance with federal regulations, applicable requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department will result in substantial and widespread economic and social impact (SWESI) to the ratepayers and the affected community, the director may establish in an NPDES permit a schedule of compliance that will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements but does not result in SWESI. Schedules of compliance established under this subrule are intended to result in compliance with the applicable federal and state regulations and requirements by the regulated entity and the affected community.

a. Disadvantaged community status. The director shall find that a regulated entity and the affected community are a disadvantaged community by evaluating all of the following:

(1) The ability of the regulated entity and the affected community to pay for a project based on the ratio of the total annual project costs per household to median household income (MHI),

(2) MHI in the community and the unemployment rate of the county in which the community is located, and

(3) The outstanding debt of the system and the bond rating of the community.

b. Disadvantaged community analysis (DCA). A regulated entity or affected community must submit a disadvantaged community analysis (DCA) to the director to be considered for disadvantaged status. A DCA may only be submitted when new requirements in a proposed or reissued NPDES permit may result in SWESI.

(1) A DCA may be submitted by any of the following:

1. A wastewater disposal system owned by a municipal corporation or other public body created by or under Iowa law and having jurisdiction over disposal of sewage, industrial wastes or other wastes, or a designated and approved management agency under Section 208 of the Act (a POTW);

2. A wastewater disposal system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288) (a semipublic system); or

3. Any other owner of a wastewater disposal system that is not a private sewage disposal system and does not discharge industrial wastes. "Private sewage disposal system" and "industrial waste" are defined in rule 567—60.2(455B).

(2) A DCA may be submitted prior to the issuance of an initial NPDES permit if the facility does not discharge industrial wastes and is not a new source or new discharger. "New source" is defined in rule 567—60.2(455B). "New discharger" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants; that did not commence the discharge of pollutants at a particular site prior to August 13, 1979; that is not a new source; and that has never received a finally effective NDPES permit for discharges at that site.

(3) A DCA may be submitted by the entities noted in subparagraph 64.7(5)*"b"*(1) above for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund.

c. Contents of a DCA.

(1) A DCA must contain all of the following:

1. Proposed total annual project costs as defined in paragraph 64.7(5)*"d"*;

2. The number of households in the affected community or, if the entity is not serving households, the number of ratepayers;

3. A description of the bond rating of the affected community over the last year, if available;

4. The user rates, as follows:

- If the DCA is submitted by or for a municipality or other community, the current sewer rate ordinances, including the sewer rates of any industrial users;
- If the DCA is submitted by or for a water treatment facility, the water rate schedules or tables; or
- If the DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the monthly ratepayer charge for wastewater treatment;

5. An explanation of why the regulated entity or affected community believes that compliance with the proposed requirements will result in SWESI.

(2) If the DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the DCA must also contain either:

1. For entities with more than ten households or ratepayers, the median household or ratepayer income, as determined by an income survey conducted by the regulated entity based on the Iowa community development block grant income survey guidelines (the survey must be included in the DCA); or

2. For entities with ten or fewer households or ratepayers, an estimate of median household or ratepayer income.

d. Definition of total annual project costs. "Total annual project costs" means the current costs of wastewater treatment in the community (if any) plus the future costs of proposed wastewater system improvements that will meet or exceed all applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or requirements of an order of the department. Total annual project costs shall include any current and proposed facility operation and maintenance costs and any existing (outstanding) and proposed system debt, as expressed in current and proposed sewer rates. The costs of the proposed wastewater treatment shall assume a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the total annual project costs.

The formula for the calculation of total annual project costs for a regulated entity and affected community is: total annual project costs = [(Estimated costs to design and build proposed project - Awarded grant funding) amortized over 30 years] + Current annual system budget (if any), including operation and maintenance (O&M) and existing debt service + Future annual O&M costs.

e. Disadvantaged community matrix (DCM). The department hereby incorporates by reference "Disadvantaged Community Matrix," DNR Form 542-1246, effective January 16, 2013. This document may be obtained on the department's NPDES Web site.

Upon receipt of a complete DCA, the director shall use the disadvantaged community matrix (DCM) to evaluate the disadvantaged status of the community. Compliance with the applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the regulated entity and affected community shall be considered a disadvantaged community, if the point total derived from the DCM is equal to or greater than 12. The following data sources shall be used to derive the point total in the DCM:

(1) The total annual project costs as stated in the DCA;

(2) The number of households or ratepayers in a community as stated in the DCA;

(3) The bond rating of the community, if available, as stated in the DCA;

(4) The MHI of either:

1. The community, as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the regulated entity or community and is based on the Iowa community development block grant income survey guidelines; or

2. The ratepayer group, as stated in an income survey that is conducted by the regulated entity and is based on the Iowa community development block grant income survey guidelines; and

(5) The unemployment rate of the county where the community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

The ratio of the total annual project costs per household or per ratepayer to MHI shall be calculated in the DCM as follows: The total annual project costs shall be divided by the number of households or ratepayers to obtain the costs per household or per ratepayer, and the costs per household or per ratepayer shall be divided by the MHI to obtain the ratio.

f. Ratio. The director shall not consider a regulated entity or affected community a disadvantaged community if the ratio of compliance costs to MHI is less than 1 percent. The director shall consider a regulated entity or affected community a disadvantaged community if the ratio of compliance costs to MHI is greater than or equal to 2 percent. If the ratio of compliance costs to MHI is greater than or equal to 1 percent and less than 2 percent, the director shall use the DCM to determine if the community is disadvantaged. The ratio of compliance costs to MHI shall be the ratio of the total annual project costs per household to MHI as calculated in the DCM.

g. Compliance schedule for a disadvantaged community. A schedule of compliance established in an NPDES permit for a disadvantaged community as a result of SWESI may contain one or two parts as necessary to comply with the applicable federal regulations and requirements in 567—Chapters 60, 61, 62, 63, and 64.

(1) The first part of a schedule of compliance for a disadvantaged community shall encompass one five-year NPDES permit cycle and shall require the permit holder to submit an alternatives report, an alternatives implementation compliance plan (AICP), and annual reports of progress that contain brief updates regarding the completion of the alternatives report and the AICP.

1. Alternatives report. The alternatives report must detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department without creating SWESI. The alternatives report must describe which measures will be evaluated for feasibility and affordability during the next portion of the compliance schedule. Alternative pollution control measures may include, but are not limited to, facility upgrades, construction of a new facility, relocation of the discharge point(s), regionalization, or outfall consolidation. Other appropriate measures may include, but are not limited to, mixing zone studies, consideration of seasonal limitations or site-specific data, alteration of current facility operations, intermittent discharges, source reduction, effluent recycling or reuse, or renegotiation of treatment agreements. The alternatives report must also include a plan for pursuing funding options, including grants and low-interest loans. The alternatives report shall be submitted no later than two years after permit issuance.

2. Alternatives implementation compliance plan (AICP). The AICP shall include the results of the investigation detailed in the alternatives report, a description of any feasible and affordable alternative(s)

that will be implemented, a schedule of the time necessary to implement the alternative(s), and an updated DCA. The AICP shall be submitted no later than 4½ years after permit issuance.

(2) If the entity or community continues to qualify as disadvantaged according to the DCM evaluation based on the DCA submitted with the AICP, the entity or community may receive a second schedule of compliance as specified in this subrule. The second schedule of compliance for a disadvantaged community may contain either the implementation schedule from the AICP or a schedule for submittal of a future compliance plan (FCP).

1. AICP implementation schedule. If the AICP proposes a schedule for implementation of one or more feasible alternatives, the proposed schedule shall be included in the reissued NPDES permit for the disadvantaged community.

2. Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the disadvantaged community cannot feasibly implement any alternatives and if the community is still disadvantaged according to the updated information in the DCA submitted with the AICP. The FCP shall detail how the disadvantaged community will meet the applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department and the period necessary to do so. An FCP shall review the types of technology capable of treating the pollutant of concern, as well as the costs of installing and operating each type of technology. All technically feasible alternatives shall be explored. The FCP shall be submitted no later than three years after permit issuance. A schedule of compliance requiring the submittal of an FCP shall also require the submittal of annual reports of progress that contain updated financial information, an updated DCA, and a brief update regarding the completion or implementation of the FCP. If the DCM evaluation determines that an entity or community is no longer disadvantaged based on the most recent DCA, the NPDES permit may be amended to change the schedule of compliance.

3. Schedule extension. The second part of a schedule of compliance for a disadvantaged community may be extended at the discretion of the director.

(3) Schedules of compliance issued in accordance with this subrule shall comply with paragraphs 64.7(4)"*b"* through *"e."*

64.7(6) *Disadvantaged unsewered communities.* If compliance with applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department will result in substantial and widespread economic and social impact (SWESI) to the ratepayers of an unsewered community, the director may negotiate a compliance agreement that will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements but does not result in SWESI.

a. Disadvantaged unsewered community status. The director shall find that an unsewered community is a disadvantaged unsewered community by evaluating all of the following:

(1) The ability of the unsewered community to pay for a project based on the ratio of the total annual project costs per household to MHI,

(2) The unemployment rate in the county where the unsewered community is located, and

(3) The MHI of the unsewered community.

b. Disadvantaged unsewered community analysis (DUCA). To be considered for disadvantaged unsewered community status, an unsewered community may submit a disadvantaged unsewered community analysis (DUCA) to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department. Only unsewered communities may submit a DUCA under this subrule. For the purposes of this subrule, an unsewered community is defined as a grouping of ten or more residential houses with a density of one house or more per acre and with either no wastewater treatment or inadequate wastewater treatment. An entity defined in rule 567—60.2(455B) as a private sewage disposal system may not submit a DUCA or qualify for a disadvantaged unsewered community compliance agreement under paragraph 64.7(6)*"g."* A DUCA may also be submitted for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund.

c. Contents of a DUCA. A DUCA must contain:

(1) Proposed total annual project costs as defined in paragraph 64.7(6)*"d"*;

(2) The number of households in the unsewered community and source of household information;

(3) Total amount of any awarded grant funding;

(4) An explanation of why the unsewered community believes that compliance with the proposed requirements will result in SWESI.

If no MHI information is available for the unsewered community, the community should conduct a rate survey to determine the MHI. The survey must be conducted in accordance with the Iowa community development block grant income survey guidelines. In addition, the survey must be attached to the DCA.

d. Definition of total annual project costs. "Total annual project costs" means the future costs of proposed wastewater system installation or improvements that will meet or exceed all applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or requirements of an order of the department. Total annual project costs shall include the proposed facility operation and maintenance (O&M) costs and the proposed debt of the system as expressed in the proposed sewer rates. The costs of the proposed wastewater treatment shall assume a 30-year loan period at an interest rate equal to the current state revolving fund interest rate. Awarded grant funding must be subtracted from the total annual project costs.

The formula for the calculation of total annual project costs for an unsewered community is: total annual project costs = [(Estimated costs to design and build proposed project - Awarded grant funding) amortized over 30 years] + Future annual O&M costs.

e. Disadvantaged unsewered community matrix (DUCM). The department hereby incorporates by reference "Disadvantaged Unsewered Community Matrix," DNR Form 542-1247, effective January 16, 2013. This document may be obtained on the department's NPDES Web site.

Upon receipt of a complete DUCA, the director shall use the disadvantaged unsewered community matrix (DUCM) to evaluate the disadvantaged status of the unsewered community. Compliance with applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the unsewered community shall be considered a disadvantaged unsewered community, if the point total derived from the DUCM is equal to or greater than 10. The following data sources shall be used to derive the point total in the DUCM:

(1) The total annual project costs as stated in the DUCA;

(2) The number of households in the unsewered community as stated in the DUCA;

(3) The MHI of the unsewered community as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the regulated entity or community and is based on the Iowa community development block grant income survey guidelines; and

(4) The unemployment rate of the county where the unsewered community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

The ratio of the total annual project costs per household to MHI shall be calculated in the DUCM as follows: the total annual project costs shall be divided by the number of households in the unsewered community to obtain the costs per household, and the costs per household shall be divided by MHI to obtain the ratio.

f. Ratio and other considerations. The director shall not consider an unsewered community a disadvantaged unsewered community if the ratio of compliance costs to MHI is below 1 percent. The director shall consider an unsewered community a disadvantaged unsewered community if the ratio of compliance costs to MHI is greater than or equal to 2 percent. If the ratio of compliance costs to MHI is greater than or equal to 1 percent, and less than 2 percent, the director shall use the DUCM to determine if the unsewered community is disadvantaged. The ratio of compliance costs to MHI shall be the ratio of the total annual project costs per household to MHI as calculated in the DUCM. The director shall not require installation of a wastewater treatment system by an unsewered community if the director determines that such installation would create SWESI.

g. Compliance agreement for a disadvantaged unsewered community. A compliance agreement negotiated with a disadvantaged unsewered community as a result of SWESI shall require the unsewered community to submit an alternatives report and an alternatives implementation compliance plan (AICP).

(1) Alternatives report. The alternatives report must detail the alternative pollution control measures that will be investigated and contain an examination of all other appropriate measures that may achieve compliance with the water quality standards without creating SWESI. The alternatives report must describe which measures will be evaluated for feasibility and affordability after the report submittal. Alternative pollution control measures may include, but are not limited to, upgrades of existing infrastructure, construction of a new facility, relocation of the discharge point(s), regionalization, or outfall consolidation. Other appropriate measures may include, but are not limited to, mixing zone studies, consideration of seasonal limitations or site-specific data, alteration of current facility operations, intermittent discharges, source reduction, effluent recycling or reuse, or renegotiation of treatment agreements. The alternatives report shall also include a plan for pursuing funding options, including grants and low-interest loans. The alternatives report shall be submitted no later than two years after an unsewered community has been determined to be a disadvantaged unsewered community.

(2) Alternatives implementation compliance plan (AICP). The AICP shall include the results of the investigation detailed in the alternatives report, a description of any feasible and affordable alternative(s) that will be implemented, a schedule of the time necessary to implement the alternative(s), and an updated DUCA. The AICP shall be submitted no later than 4½ years after an unsewered community has been determined to be a disadvantaged unsewered community.

(3) AICP implementation schedule. If the AICP proposes a schedule for implementation of one or more feasible alternatives, the proposed schedule shall be included in an administrative order between the department and the unsewered community. If the feasible alternative that will be implemented requires a construction permit, an operation permit, or an NPDES permit, the unsewered community shall comply with the rules regarding those permits in this chapter.

(4) Future compliance plan (FCP). The submittal of an FCP will be necessary only if the AICP concludes that the unsewered community cannot feasibly implement any alternatives and if the community is still disadvantaged according to the updated information in the DUCA submitted with the AICP. The FCP shall detail how the unsewered community will meet the water quality standards and the period necessary to do so. An FCP shall review the types of technology capable of treating the pollutant of concern, as well as the costs of installing and operating each type of technology. All technically feasible alternatives shall be explored. The FCP shall be submitted no later than seven years after an unsewered community has been determined to be a disadvantaged unsewered community. An administrative order requiring the submittal of an FCP shall also require the submittal of biennial progress reports that contain an updated DUCA. If the DUCM evaluation determines that an unsewered community is no longer disadvantaged based on the most recent DUCA, the order may be amended at the discretion of the director.

64.7(7) *Other terms and conditions of issued NPDES permits.* Each issued NPDES permit shall provide for and ensure the following:

a. That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submission of a new NPDES application or, if such discharge does not violate effluent limitations specified in the NPDES permit, by submission to the director of notice of such new or increased discharges of pollutants; that the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit; that if the terms and conditions of a general permit are no longer applicable to a discharge, the applicant shall apply for an individual NPDES permit;

b. That the permit may be amended, revoked and reissued, or terminated in whole or in part for the causes provided in 64.3(11)*"b."*

c. That the permittee shall permit the director or the director's authorized representative upon the presentation of credentials:

(1) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(2) To have access to and copy any records required to be kept under terms and conditions of the permit;

(3) To inspect any monitoring equipment or method required in the permit; or

(4) To sample any discharge of pollutants.

d. That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the director of the following:

(1) One hundred eighty days in advance of any new introduction of pollutants into such treatment works from a new source as defined in 567—Chapter 60 if such source were discharging pollutants;

(2) Except as specified below, 180 days in advance of any new introduction of pollutants into such treatment works from a source which would be subject to Section 301 of the Act if such source were discharging pollutants. However, the connection of such a source need not be reported if the source contributes less than 25,000 gallons of process wastewater per day at the average discharge, or contributes less than 5 percent of the organic or hydraulic loading of the treatment facility, or is not subject to a federal pretreatment standard adopted by reference in 567—Chapter 62, or does not contribute pollutants that may cause interference or pass through; and

(3) Sixty days in advance of any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

e. That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of such treatment works to comply with the requirements of Sections 204(b), 307, and 308 of the Act. As a means of ensuring such compliance, the permittee shall require that each industrial user subject to the requirements of Section 307 of the Act give to the permittee periodic notice (over intervals not to exceed six months) of progress toward full compliance with Section 307 requirements. The permittee shall forward a copy of the notice to the director.

f. That the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of treatment and control which have been installed or are used by the permittee to achieve compliance with the terms and conditions of the permit. Proper operation and maintenance also include adequate laboratory control and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which have been installed by the permittee only when such operation is necessary to achieve compliance with the conditions of the permit.

g. That if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES permit, the director shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee.

h. If an applicant for an NPDES permit proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of an NPDES permit, the director shall specify additional terms and conditions of the issued NPDES permit which shall prohibit the proposed disposal or control the proposed disposal in order to prevent pollution of ground and surface water resources and to protect the public health and welfare. (See rule 567—62.9(455B) which prohibits the disposal of pollutants, other than heat, into wells within Iowa.)

i. That the permittee shall take all reasonable steps to minimize or prevent any discharge in violation of the permit which has a reasonable likelihood of adversely affecting human health or the environment.

j. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the terms of this permit.

64.7(8) *POTW compliance—plan of action required.* The owner of a publicly owned treatment works (POTW) must prepare and implement a plan of action to achieve and maintain compliance with final effluent limitations in its NPDES permit, as specified below:

a. The director shall notify the owner of a POTW of the plan of action requirement, and of an opportunity to meet with department staff to discuss the plan of action requirements. The POTW owner shall submit a plan of action to the appropriate regional field office of the department within six months of such notice, unless a longer time is needed and is authorized in writing by the director.

b. The plan of action will vary in length and complexity depending on the compliance history and physical status of the particular POTW. It must identify the deficiencies and needs of the system, describe the causes of such deficiencies or needs, propose specific measures (including an implementation schedule) that will be taken to correct the deficiencies or meet the needs, and discuss the method of financing the improvements proposed in the plan of action. A plan may include the submittal of a disadvantaged community analysis in accordance with subrule 64.7(5), at the discretion of the POTW.

The plan may provide for a phased construction approach to meet interim and final limitations, where financing is such that a long-term project is necessary to meet final limitations, and shorter term projects may provide incremental benefits to water quality in the interim.

Information on the purpose and preparation of the plan can be found in the departmental document entitled "Guidance on Preparing a Plan of Action," available from the department's regional field offices.

c. Upon submission of a complete plan of action to the department, the plan should be reviewed and approved or disapproved within 60 days unless a longer time is required and the POTW owner is so notified.

d. The NPDES permit for the facility shall be amended to include the implementation schedule or other actions developed through the plan to achieve and maintain compliance.

This rule is intended to implement Iowa Code chapter 455B, division III, part 1 (455B.171 to 455B.187).

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 0529C**, IAB 12/12/12, effective 1/16/13; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—64.8(455B) Reissuance of operation and NPDES permits.

64.8(1) *Individual operation and NPDES permits.* Individual operation and NPDES permits will be reissued according to the procedures identified in 64.8(1)*"a"* to *"c."*

a. Any operation or NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least 180 days prior to the expiration of the permit pursuant to 567—60.4(455B). For a POTW, permission to submit an application at a later date may be granted by the director. In addition, the applicant must submit up-to-date information on the permittee's production levels, the permittee's waste treatment practices, or the nature, contents, and frequency of the permittee's discharge, as required by the permit application.

b. The director shall follow the notice and public participation procedures specified in 567—64.5(455B) in connection with each request for reissuance of an NPDES permit.

c. Notwithstanding any other provision in these rules, any new point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 (October 18, 1972) and which is so constructed as to meet all applicable standards of performance for new sources shall not be subject to any more stringent standard of performance during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of Section 167 or 169 (or both) of the Internal Revenue Code, as amended through December 31, 1976, whichever period ends first.

64.8(2) *Renewal of coverage under a general permit.* Coverage under a general permit will be renewed subject to the terms and conditions in paragraphs *"a"* to *"d."*

a. If a permittee intends to continue an activity covered by a general permit beyond the expiration date of the general permit, the permittee must reapply and submit a complete Notice of Intent in accordance with 64.6(1).

b. A complete Notice of Intent for coverage under a reissued or renewed general permit must be submitted to the department within 180 days after the expiration date of a general permit.

c. A person holding a general permit is subject to the terms of the permit until it expires or a Notice of Discontinuation is submitted in accordance with 64.6(5). If the person holding a general permit continues the activity beyond the expiration date, the conditions of the expired general permit will remain in effect provided the permittee submits a complete Notice of Intent for coverage under a renewed or reissued general permit within 180 days after the expiration date of the expired general permit. If the person continues an activity for which the general permit has expired and the general permit has not been reissued or renewed, the discharge must be permitted with an individual NPDES permit according to the procedures in 64.3(4)*"a."*

d. The Notice of Intent requirements shall not include a public notification when a general permit has been reissued or renewed provided the permittee has already submitted a complete Notice of Intent including the public notification requirements of 64.6(1). Another public notice is required when any information, including facility location, in the original public notice is changed.

64.8(3) *Continuation of expiring operation and NPDES permits.*

a. The conditions of an expired operation or NPDES permit will continue in force until the effective date of a new permit if:

(1) The permittee has submitted a timely and complete application under 567—subrule 60.4(2); and

(2) The department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

b. Operation and NPDES permits continued under this subrule remain fully effective and enforceable.

c. If a permittee is not in compliance with the conditions of the expiring or continued permit, the department may choose to do any of the following:

(1) Initiate enforcement action on a permit which has been continued or reissued;

(2) Issue a notice of intent to deny a permit under 64.5(1);

(3) Reissue a permit with appropriate conditions in accordance with this subrule; or

(4) Take other actions authorized by this rule.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—64.9(455B) Monitoring, record keeping and reporting by operation permit holders. Operation permit holders are subject to any applicable requirements and provisions specified in the operation permit issued by the department and to the applicable requirements and provisions specified in 567—Chapter 63.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—64.10(455B) Silvicultural activities. The following is adopted by reference: 40 CFR 122.27.

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—64.11 and **64.12** Reserved.

567—64.13(455B) Storm water discharges.

64.13(1) The following is adopted by reference: 40 CFR 122.26.

64.13(2) Small municipal separate storm sewer systems.

a. For any discharge from a regulated small municipal separate storm sewer system (MS4), the permit application must be submitted no later than March 10, 2003, if designated under this subrule.

b. All MS4s located in urbanized areas as defined by the latest decennial census and all MS4s which serve 10,000 people or more located outside urbanized areas and where the average population density is 1,000 people/square mile or more are regulated small MS4s unless waiver criteria established by the department are met and a waiver has been granted by the department.

c. Permit coverage requirements for MS4s located in urbanized areas and serving 1,000 or more people and fewer than 10,000 people may be waived if the following requirements are met:

(1) The department has evaluated all waters of the United States that receive a discharge from the MS4, and for all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established total maximum daily load (TMDL) that addresses the pollutants of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutants of concern. The pollutants of concern include biochemical oxygen demand, sediment or a parameter that addresses sediment (total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the MS4.

(2) The department has determined that future discharges from the MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses or other significant water quality impacts including habitat and biological impacts.

d. Permit coverage requirements for MS4s located in urbanized areas and serving fewer than 1,000 people may be waived if the following requirements are met:

(1) The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES storm water program.

(2) The MS4 discharges any pollutants that have been identified as a cause of impairment of any water body to which the MS4 discharges and the department has determined that storm water controls are not needed based upon wasteload allocations that are a part of an EPA approved or established TMDL that addresses the pollutants of concern.

e. Permit coverage requirements for MS4s located outside of urbanized areas and serving 10,000 or more people may be waived if the following criterion is met:

The MS4 is not discharging pollutants which are the cause of the impairment to a water body designated by the department as impaired.

f. Should conditions under which the initial waiver was granted change, the waiver may be rescinded by the department and permit coverage may be required.

g. MS4 applications shall, at a minimum, demonstrate in what manner the applicant will develop, implement and enforce a storm water management program designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act. The manner in which the permittee will address the following items must be addressed in the application: public education and outreach on storm water impacts, public involvement and participation, illicit discharge detection and elimination, construction site storm water runoff control, postconstruction storm water management in new development and redevelopment, and pollution prevention for municipal operations. Measurable goals which the applicant intends to meet and dates by which the goals will be accomplished shall be included with the application.

64.13(3) Waivers for storm water discharge associated with small construction activity. The director may waive the otherwise applicable requirements in a general permit for storm water discharge from small construction activities as defined in 567—Chapter 60 when:

a. The value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than 5 during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997; or

b. Storm water controls are not needed based on a TMDL approved or established by the EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. The pollutant(s) of concern includes sediment or a parameter that addresses sediment

(such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

567—64.14(455B) Transfer of title and owner or operator address change.

64.14(1) *Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1)"a"(5) and (6).* If title to any disposal system or part thereof for which a permit has been issued under these rules is transferred, the new owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.

64.14(2) *Permits issued under 64.6(1)"a"(5) and (6).* When the operator of a facility permitted under subparagraphs 64.6(1)*"a"*(5) and (6) changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.
[**ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 9553B**, IAB 6/15/11, effective 7/20/11; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

Rules 567—64.3(455B) to 567—64.14(455B) are intended to implement Iowa Code section 455B.173.

567—64.15(455B) General permits issued by the department. The following is a list of general permits adopted by the department through the Administrative Procedure Act, Iowa Code chapter 17A, and the term of each permit.

64.15(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective October 1, 2012, to October 1, 2017, as amended on March 26, 2014. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

64.15(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective October 1, 2012, to October 1, 2017, as amended on August 12, 2015.

64.15(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective October 1, 2012, to October 1, 2017, as amended on March 26, 2014. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

64.15(4) "Discharge from Private Sewage Disposal Systems," NPDES General Permit No. 4, effective March 18, 2009, to March 17, 2011.

64.15(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5, effective July 20, 2011.

64.15(6) "Discharge Associated with Well Construction Activities," NPDES General Permit No. 6, effective March 1, 2015, to February 28, 2020.

64.15(7) "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides," NPDES General Permit No. 7, effective March 30, 2011, to March 29, 2016.

[**ARC 7569B**, IAB 2/11/09, effective 3/18/09; **ARC 8520B**, IAB 2/10/10, effective 3/17/10; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 9553B**, IAB 6/15/11, effective 7/20/11; **ARC 0261C**, IAB 8/8/12, effective 10/1/12; **ARC 1337C**, IAB 2/19/14, effective 3/26/14; **ARC 1912C**, IAB 3/18/15, effective 3/1/15; **ARC 2054C**, IAB 7/8/15, effective 8/12/15]

567—64.16(455B) Fees.

64.16(1) A person who applies for an individual permit or coverage under a general permit to construct, install, modify or operate a disposal system shall submit along with the application an application fee or a permit fee or both as specified in 64.16(3). Certain individual facilities shall also be required to submit annual fees as specified in 64.16(3)*"b."* Fees shall be assessed based on the type of permit coverage the applicant requests, either as general permit coverage or as an individual permit. For a construction permit, an application fee must be submitted with the application. For General Permits Nos. 1, 2, 3 and 5, the applicant has the option of paying an annual permit fee or a multiyear permit fee at the time the Notice of Intent for coverage is submitted.

For individual storm water only permits, a one-time, multiyear permit fee must be submitted at the time of application. A storm water only permit is defined as an NPDES permit that authorizes the discharge of only storm water and any allowable non-storm water as defined in the permit. For all other non-storm water NPDES permits and operation permits, the applicant must submit an application fee at the time of application and the appropriate annual fee on a yearly basis. A non-storm water NPDES permit is defined as any individual NPDES permit or operation permit issued to a municipality, industry, semipublic entity, or animal feeding operation that is not an individual storm water only permit. If a facility needs coverage under more than one NPDES permit, fees for each permit must be submitted appropriately.

Fees are nontransferable. Failure to submit the appropriate fee at the time of application renders the application incomplete, and the department shall suspend processing of the application until the fee is received. Failure to submit the appropriate annual fee may result in revocation or suspension of the permit as noted in 64.3(11)*"f."*

64.16(2) Payment of fees. Fees shall be paid by check or money order made payable to the "Iowa Department of Natural Resources."

For facilities needing coverage under both a storm water only permit and a non-storm water NPDES permit, separate payments shall be made according to the fee schedule in 64.16(3).

64.16(3) Fee schedule. The following fees have been adopted:

a. For coverage under the NPDES general permits, the following fees apply:

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1.

Annual Permit Fee	$175(per year)
or	
Five-year Permit Fee	$700
Four-year Permit Fee	$525
Three-year Permit Fee	$350

All fees are to be submitted with the Notice of Intent for coverage under the general permit.

(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(4) Discharge from Private Sewage Disposal Systems, NPDES Permit No. 4. No fees shall be assessed.

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5.

Annual Permit Fee	$125 (per year)
or	
Five-year Permit Fee	$500
Four-year Permit Fee	$400
Three-year Permit Fee	$300

New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

b. Individual NPDES and operation permit fees. The following fees are applicable for the described individual NPDES permit:

(1) For permits that authorize the discharge of only storm water associated with industrial activity and any allowable non-storm water, a five-year permit fee of $1,250 must accompany the application.

(2) For permits that authorize the discharge of only storm water from municipal separate storm sewer systems and any allowable non-storm water, a five-year permit fee of $1,250 must accompany the application.

(3) For operation and non-storm water NPDES permits not subject to subparagraphs (1) and (2), a single application fee of $85 as established in Iowa Code section 455B.197 is due at the time of application. The application fee is to be submitted with the application forms (as required by 567—Chapter 60) at the time of a new application, renewal application, or amendment application. Before an approved amendment request submitted by a facility holding a non-storm water NPDES permit can be processed by the department, the application fee must be submitted. Application fees will not be charged to facilities holding non-storm water NPDES permits when an amendment request is initiated by the director, when the requested amendment will correct an error in the permit, or when there is a transfer of title or change in the address of the owner as noted in 567—64.14(455B).

(4) For every major and minor municipal facility, every semipublic facility, every major and minor industrial facility, every facility that holds an operation permit (no wastewater discharge into surface waters), and every open feedlot animal feeding operation required to hold a non-storm water NPDES permit, an annual fee as established in Iowa Code section 455B.197 is due by August 30 of each year.

(5) For every municipal water treatment facility with a non-storm water NPDES permit, no fee is charged (as established in Iowa Code section 455B.197).

(6) For a new facility, an annual fee as established in Iowa Code section 455B.197 is due 30 days after the new permit is issued.

c. Wastewater construction permit fees. A single construction permit fee as established in Iowa Code section 455B.197 is due at the time of construction permit application submission.

64.16(4) Fee refunds for storm water general permit coverage—pilot project. Rescinded IAB 10/16/02, effective 11/20/02.

64.16(5) "Discharge Associated with Well Construction Activities," NPDES General Permit No. 6. No fees shall be assessed.

64.16(6) "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides," NPDES General Permit No. 7. No fees shall be assessed.

64.16(7) *Fee refunds.*

a. Individual and general permit application, permit, and annual fees may be refunded, completely or in part, at the discretion of the director. Permittees who wish to receive fee refunds should notify the department in writing. Fees may be refunded under various circumstances, including, but not limited to:

(1) A duplicate fee was submitted (for example, two annual fees for the same permit are paid in the same fiscal year).

(2) A fee was overpaid.

(3) A fee was submitted but is not required as part of the permit application or renewal (for example, an individual annual permit fee was submitted for a discontinued permit, a general permit NOI fee was submitted for an individual permit, or an amendment fee was submitted for a permit that cannot be amended).

(4) An application is returned to the applicant by the department without decision.

b. Fees shall not be refunded under any of the following conditions:

(1) If the permit or permit coverage is suspended, revoked, or modified, or if the activity is discontinued or ceased.

(2) If a permit is amended.

(3) If a permit application is withdrawn by the applicant or denied by the department pursuant to 64.5(1).

[Editorial change: IAC Supplement 2/11/09; **ARC 7625B**, IAB 3/11/09, effective 4/15/09; **ARC 8520B**, IAB 2/10/10, effective 3/17/10; **ARC 9365B**, IAB 2/9/11, effective 3/30/11; **ARC 9553B**, IAB 6/15/11, effective 7/20/11; **ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—64.17(455B) Validity of rules. If any section, paragraph, sentence, clause, phrase or word of these rules, or any part thereof, be declared unconstitutional or invalid for any reason, the remainder of said rules shall not be affected thereby and shall remain in full force and effect.

567—64.18(455B) Applicability. This chapter shall apply to all waste disposal systems treating or intending to treat sewage, industrial waste, or other waste except waste resulting from livestock or poultry operations. All livestock and poultry operations constituting animal feeding operations as defined in 567—Chapter 65 shall be governed by the requirements contained in Chapter 65. However, the provisions of this chapter concerning NPDES permits which relate to notice and public participation, to the terms and conditions of the permit, to the reissuance of the permit and to monitoring, reporting and record-keeping activities shall apply to animal feeding operations which are required to apply for and obtain an NPDES permit to the extent that such requirements are not inconsistent with 567—Chapter 65.

[**ARC 1627C**, IAB 9/17/14, effective 10/22/14]

These rules are intended to implement Iowa Code chapter 455B, division III, part 1.

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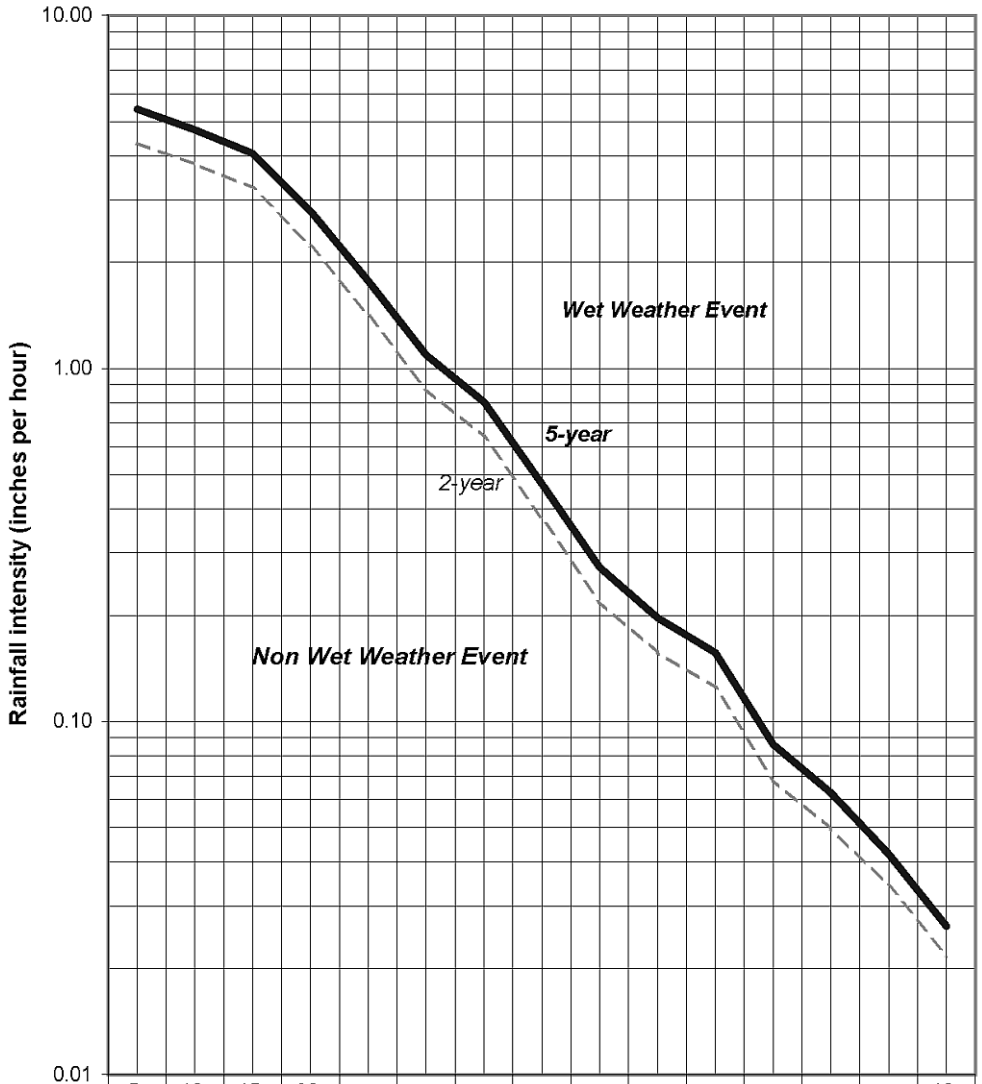
[1] Effective date of 64.2(9)*"c"* delayed 70 days by the Administrative Rules Review Committee. The 70-day delay of effective date of 64.2(9)*"c"* was lifted by the Administrative Rules Review Committee on 7/31/86.

APPENDIX A
Rainfall Intensity - Duration - Frequency Curve
(5 and 2 year Return Intervals)

Data Source: *Rainfall Frequency Atlas of the Midwest*, Illinios State Water Survey, 1992.



Duration (time)	5-min	10-min	15-min	30-min	1-hr	2-hr	3-hr	6-hr	12-hr	18-hr	24-hr	48-hr	72-hr	5-day	10-day
5 year	5.41	4.73	4.06	2.78	1.77	1.09	0.80	0.47	0.27	0.20	0.16	0.086	0.063	0.042	0.026
2 year	4.33	3.79	3.24	2.22	1.41	0.87	0.64	0.38	0.22	0.16	0.13	0.068	0.050	0.034	0.022

Rainfall intensity data points (inches per hour)

[**ARC 7625B**, IAB 3/11/09, effective 4/15/09]

CHAPTER 67
STANDARDS FOR THE LAND APPLICATION OF SEWAGE SLUDGE

567—67.1(455B) Land application of sewage sludge.

67.1(1) General. This chapter establishes standards for the land application of sewage sludge generated during the treatment of domestic sewage in a treatment works. This chapter applies to any person who prepares sewage sludge (generator), to any person who applies sewage sludge to the land (applicator), and to sewage sludge applied to the land. No person shall land apply sewage sludge through any practice for which requirements are established in this chapter except in accordance with such requirements.

In areas that are not specifically addressed in this chapter, but which are addressed in federal regulations at 40 CFR Part 503, the federal regulations shall apply under this rule and are hereby adopted by reference under this chapter.

On a case-by-case basis, this department may impose requirements for the land application of sewage sludge in addition to or more stringent than the requirements in this chapter when necessary to protect public health and the environment from any adverse effect of a pollutant in the sewage sludge.

67.1(2) Sewage sludge generators shall ensure that the applicable requirements in this chapter are met when the sewage sludge is applied to the land.

If the sewage sludge generator determines that a person being supplied sewage sludge for land application is not complying with applicable requirements of the land application program, the generator shall work with the applicator to obtain compliance with the requirements. If subsequent compliance cannot be achieved, the generator shall not supply additional sewage sludge to the applicator.

[**ARC 2482C**, IAB 4/13/16, effective 5/18/16]

567—67.2(455B) Exclusions. This chapter does not establish requirements for the land application of the following solid wastes.

67.2(1) Sludge generated at an industrial facility.

67.2(2) Hazardous sewage sludge—sewage sludge determined to be hazardous in accordance with 40 CFR Part 261.

67.2(3) Sewage sludge with a PCB concentration of 50 mg/kg or higher.

67.2(4) Incinerator ash.

67.2(5) Grit and screenings.

67.2(6) Drinking water treatment sludge.

567—67.3(455B) Sampling and analysis. Any sewage sludge generator who intends to land apply sewage sludge shall:

67.3(1) Sample and analyze the waste to determine whether it meets the criteria for sewage sludge Class I, II, or III.

67.3(2) Analyze the waste to determine if any sources exist which may contribute significant quantities of potentially hazardous chemicals or other toxic substances. If any are found, the generator shall inform the department of their presence and shall analyze the waste for chemicals or substances in accordance with guidelines provided by the department.

67.3(3) Unless rules for specific programs under USEPA or department authority provide otherwise, or unless other methods are approved by the department for a specific situation, samples taken and analyses made to document contamination under this chapter shall be conducted in accordance with the methods described in 567—67.10(455B).

567—67.4(455B) Land application program. All sewage sludge generators wishing to land apply sewage sludge shall establish and maintain in writing a long-range program for land application of sewage sludge. This program shall be developed for a minimum period of five years and shall be updated annually. A copy of this program shall be available at the facility for inspection by the department. At a minimum this program shall contain the following information in detail for the next calendar year and in general terms for the following four years. The plan shall include but not be limited to the following:

67.4(1) An outline of the sewage sludge sampling schedule and procedures which will be followed to ensure that the sewage sludge being applied to land continues to meet the requirements.

67.4(2) A determination of the amount of land required to allow land application to be conducted in accordance with the requirements.

67.4(3) Identification of the land and application methods which will be used for land application of the sewage sludge. Those areas and application methods shall be selected as necessary to ensure that land application can be conducted in accordance with the requirements.

67.4(4) The names of the owners and operators of all land to be used for land application, and identification of any legal arrangements made relative to use of these areas. The programs should also outline any restrictions or special conditions which exist regarding use of these areas for land application of sewage sludge.

67.4(5) An overall schedule for the land application of sewage sludge. This schedule should indicate the areas being used, the time of year that land application on each area will be conducted, and the proposed application rates for each area.

67.4(6) A determination of the types and capacities of the equipment required for land application of sewage sludge in accordance with the developed application schedule. The program shall also outline how the required application equipment will be made available and who will be responsible for conducting land application operations.

67.4(7) A determination of the volumes and types of storage and handling facilities required to allow land application of sewage sludge to be conducted in accordance with the land application schedule. The program shall also outline how any required additional sludge storage or handling facilities will be provided.

67.4(8) A plan to construct or obtain any additional sludge storage, handling or application facilities or equipment which are required by the land application program.

567—67.5(455B) Special definitions.

"Agronomic rate" is the whole sludge application rate designed to provide the amount of nitrogen needed by the crop grown on the land and to minimize the amount of nitrogen that passes to the groundwater.

"Annual whole sludge application rate" is the maximum amount of sewage sludge (dry weight basis) that can be applied to a unit area of land during a 365-day period.

"Bulk sewage sludge" is sewage sludge that is not sold or given away in a bag or other container for application to the land.

"Cumulative pollutant loading rate" is the maximum amount of an inorganic pollutant that can be applied to an area of land.

"Dry weight basis" means calculated on the basis of having been dried at 105 degrees Celsius until reaching a constant mass (i.e., essentially 100 percent solids content).

"Food crops" are crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

"Land with a high potential for public exposure" is land that the public uses frequently. This includes, but is not limited to, a public contact site and a reclamation site located in a populated area (e.g., a construction site located in a city).

"Land with a low potential for public exposure" is land that the public uses infrequently. This includes, but is not limited to, agricultural land, forest, and a reclamation site located in an unpopulated area (e.g., a strip mine located in a rural area).

"Person who prepares sewage sludge" is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge.

"Sewage sludge" is solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge does not include the grit and screenings generated during preliminary treatment.

567—67.6(455B) Permit requirements. Prior to any land application of sewage sludge, a permit must be obtained by the sewage sludge generator in accordance with the following requirements:

67.6(1) Any treatment facility proposing to land apply sewage sludge shall apply for a permit for land application of sewage sludge on a properly completed form supplied by the department. Application forms may be obtained from:

Environmental Services Division
Iowa Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
http://www.iowadnr.gov/

Properly completed forms should be submitted in accordance with the instructions for the form.

a. Permit application for land application of sewage sludge from new facilities shall be filed at least 180 days prior to the date operation is scheduled to begin unless a shorter period of time is approved by the department.

b. Existing facilities generating sewage sludge shall file an application for land application of sewage sludge within 90 days of September 21, 1994, or at least 180 days prior to the expiration of any state operation or NPDES permit issued to the facility pursuant to 567—64.3(455B) or 567—64.4(455B), whichever date is later.

c. Sewage sludge disposal operations which are not regulated under 567—Chapter 64 shall apply for a permit for land application of sewage sludge no later than 90 days after September 21, 1994.

67.6(2) The permit for land application of sewage sludge for any sewage sludge generating facility will be issued concurrently and as part of a state operation permit or NPDES permit. The issuance process and permit terms will be the same as that specified for NPDES permits in 567—Chapter 64.

567—67.7(455B) Land application requirements for Class I sewage sludge.

67.7(1) *Class I sludge criteria.* Class I sludge is sewage sludge that has excellent quality and has been treated in a process equivalent to processes to further reduce pathogens (PFRP).

a. The concentration of each pollutant in the sewage sludge shall not exceed the concentration for the pollutant in Table 1.

TABLE 1—POLLUTANT CONCENTRATIONS

Pollutant	Monthly Average Concentration milligrams per kilogram*
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

*Dry weight basis

b. One of the monitoring processes in (1) below and also one of the analytical and treatment processes in (2) below shall be met for a sewage sludge to be classified as Class I sludge.

(1) Monitoring processes.

1. The density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis).

2. The density of Salmonella sp. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis).

(2) Analytical and treatment processes.

1. The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis).

2. The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis).

3. Sewage sludge shall be treated in one of the Processes to Further Reduce Pathogens (PFRP) described in 567—67.11(455B).

4. Sewage sludge shall be treated in a process that is equivalent to a Process to Further Reduce Pathogens (PFRP), as determined by the department.

c. One of the vector attraction reduction requirements shall be met for a sewage sludge to be classified as Class I sludge.

(1) The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent.

(2) The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

(3) Digest a portion of the previously anaerobically digested sewage sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. At the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17 percent.

(4) Digest a portion of the previously aerobically digested sewage sludge that has a percent solids of 2 percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. At the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15 percent.

(5) Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

(6) The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 2 hours and then at 11.5 or higher for an additional 22 hours.

(7) Sewage sludge shall be injected below the surface of the land and no significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

(8) Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.

67.7(2) *Management practices for Class I sewage sludge.*

a. Only Class I sewage sludge can be applied to a lawn or a home garden.

b. Sewage sludge shall not be applied to land that is 35 feet or less from an open waterway.

c. Sewage sludge shall be applied to the land at an annual whole sludge application rate that is equal to or less than the agronomic nitrogen uptake rate, unless otherwise specified by the department.

d. An information sheet shall be provided to the person who receives sewage sludge sold or given away in a container for application to the land. The label or information sheet shall contain the following information:

(1) The name and address of the sewage sludge generator.

(2) A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the information sheet.

(3) The annual application rate for the sewage sludge.

67.7(3) *Frequency of monitoring for Class I sewage sludge.*

a. The frequency of monitoring for the pollutants listed in Table 1, the pathogen density requirements, and the vector attraction reduction requirements shall be the frequency stated in Table 2.

TABLE 2—FREQUENCY OF MONITORING

Amount of sewage sludge metric tons per 365-day period dry weight basis	Monitoring Frequency
Greater than zero but less than 290 (or 325 English ton)	once per year
Equal to or greater than 290 but less than 1,500 (English ton 325 to 1,680)	once per quarter (4 times per year)
Equal to or greater than 1,500 but less than 15,000 (English ton 1,680 to 16,800)	once per 60 days (6 times per year)
Equal to or greater than 15,000 (or 16,800 English ton)	once per month (12 times per year)

b. After the sewage sludge has been monitored for two years, the department may reduce the frequency of monitoring, but in no case shall the frequency of monitoring be less than once per year when sewage sludge is applied to the land.

67.7(4) *Record keeping for Class I sewage sludge.*

a. Both the generator and bulk sludge applicator of Class I sewage sludge shall develop the following information and shall retain the information for five years:

(1) The concentration of each pollutant listed in Table 1 in the sewage sludge.

(2) The following certification statement: "I certify, under penalty of law, that the Class I sewage sludge requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

(3) A description of how the Processes to Further Reduce Pathogens requirements (PFRP) are met.

(4) A description of how one of the vector attraction reduction requirements is met.

(5) A description of how the management practices are met for each site.

b. Treatment works with a design flow rate of 1 million gallons per day or greater and treatment works that serve 10,000 people or more shall submit the above information to the department by February 19 of each year for the previous calendar year.

567—67.8(455B) Land application requirements for Class II sewage sludge.

67.8(1) *Class II sludge criteria.* Class II sludge is sewage sludge that has normal quality and has been treated in a process equivalent to Processes to Significantly Reduce Pathogens (PSRP).

a. The concentration of any pollutant in the sewage sludge shall not exceed the ceiling concentration for the pollutant in Table 3.

TABLE 3—CEILING CONCENTRATIONS

Pollutant	Ceiling Concentration milligrams per kilogram*
Arsenic	75
Cadmium	85
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

*Dry weight basis

b. One of the following Processes to Significantly Reduce Pathogens requirements (PSRP) shall be met for a sewage sludge to be classified as Class II sludge.

(1) Seven samples of the sewage sludge shall be collected at the time the sewage sludge is disposed, and the geometric mean of the density of fecal coliform shall be less than 2,000,000 Most Probable Number per gram of total solids (dry weight basis).

(2) Sewage sludge shall be treated in one of the Processes to Significantly Reduce Pathogens (PSRP) described in 567—67.11(455B).

(3) Sewage sludge shall be treated in a process that is equivalent to a Process to Significantly Reduce Pathogens (PSRP), as determined by the department.

c. One of the vector attraction reduction requirements shall be met for a sewage sludge to be classified as Class II sludge.

(1) The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent.

(2) The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

(3) Digest a portion of the previously anaerobically digested sewage sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. At the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17 percent.

(4) Digest a portion of the previously aerobically digested sewage sludge that has a percent solids of 2 percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. At the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15 percent.

(5) Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

(6) The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 2 hours and then at 11.5 or higher for an additional 22 hours.

(7) Sewage sludge shall be injected below the surface of the land and no significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

(8) Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.

67.8(2) *Management practices for Class II sewage sludge.*

a. Class II sewage sludge shall not be applied to a lawn or a home garden.

b. Land application sites accepting Class II sewage sludge not meeting pollutant concentrations listed in Table 1 of subrule 67.7(1) are subject to the cumulative pollutant loading rates listed in Table 4.

TABLE 4—CUMULATIVE POLLUTANT LOADING RATES

Pollutant	Cumulative Pollutant kilograms per hectare	Loading Rate pounds per acre
Arsenic	41	36
Cadmium	39	34
Copper	1500	1335
Lead	300	267
Mercury	17	15
Nickel	420	373
Selenium	100	89
Zinc	2800	2490

c. Sewage sludge shall not be applied to the land if it is likely to adversely affect a threatened or endangered species listed under section 4 of the Endangered Species Act or its designated critical habitat.

d. Sewage sludge shall be applied to the land at an annual whole sludge application rate that is equal to or less than the agronomic nitrogen uptake rate, unless otherwise specified by the department.

e. The sewage sludge shall be applied only to soils classified as acceptable throughout the top 5 feet of soil profile. The sewage sludge shall not be applied to soils classified as sand, loamy sand and silt. The acceptability of a soil shall be determined using the USDA soil classifications.

f. Land application sites shall have soil pH maintained above 6.0, unless (1) crops prefer soils with lower pH conditions, (2) the sludge meets the pollution concentrations contained in Table 1, or (3) the site does not exceed calcium carbonate equivalent levels according to sound farm management practices. If the soil pH is below 6.0, it is acceptable to use agricultural lime to increase the pH to an acceptable level.

g. If the sewage sludge is applied to land on which the soil loss exceeds the soil loss limits established by the county soil conservation district, the sewage sludge shall be injected on the contour or shall be applied to the surface and mechanically incorporated into soil within 48 hours of application. The sewage sludge shall not be applied to ground having greater than 9 percent slope unless approved by the department.

h. Sewage sludge application on frozen or snow-covered ground should be avoided, unless special precautions are taken such as proven farm management practices to avoid runoff. If application on frozen or snow-covered ground is necessary, it shall be limited to land areas of less than 5 percent slope unless approved by the department.

i. Sewage sludge shall not be applied to the land that is 35 feet or less from an open waterway. If sewage sludge is applied within 200 feet, but no closer than 35 feet, of a stream, lake, sinkhole or tile line surface intake located downgradient of the land application site, it shall be injected or applied to the surface and mechanically incorporated into the soil within 48 hours of application unless approved by the department.

j. If the sewage sludge is applied to land subject to flooding more frequently than once in ten years, the sludge shall be injected or shall be applied to the surface and mechanically incorporated into the soil within 48 hours. Information on which land is subject to flooding more frequently than once in ten years is available from the department.

k. Sewage sludge shall not be applied within 200 feet of an occupied residence or any well. Distances may be reduced to a minimum of 35 feet with the written agreement of both the owner and occupant and an approved farm management plan which addresses soil erodibility, harvest residuals, buffer strips, and other sound farm management practices. The farm management plan shall be

approved by the local soil conservation district commission in accordance with rules implementing Iowa Code sections 161A.42 to 161A.51.

l. Food crops with harvested parts that touch the sewage sludge/soil mixture shall not be harvested for 38 months after application of sewage sludge.

m. Food crops, feed crops and fiber crops shall not be harvested for 30 days after application of sewage sludge.

n. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.

o. Turf grown on land where sewage sludge is applied shall not be harvested for one year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the department.

p. Public access to land with a high potential for public exposure shall be restricted for one year after application of sewage sludge.

q. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

r. When required by the director, groundwater monitoring wells and surface monitoring points shall be installed and a monitoring program implemented. Samples must be analyzed by a laboratory which is equipped and competent to perform the tests required by the director. The results shall be forwarded to the department on a stipulated schedule.

s. The sewage sludge generator shall provide the notice and necessary information to comply with the requirements to the sewage sludge applicator and landowner.

t. The sewage sludge applicator shall provide written notice, prior to the initial application of sewage sludge, to the department. The notice shall include:

(1) The location, by legal description, of the land application site and the landowner.

(2) The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) of the sewage sludge generator and the applicator.

67.8(3) *Frequency of monitoring for Class II sewage sludge.*

a. The frequency of monitoring for the pollutants listed in Table 3, the pathogen density requirements, and the vector attraction reduction requirements shall be at the frequency stated in Table 5.

TABLE 5—FREQUENCY OF MONITORING

Amount of sewage sludge metric tons per 365-day period dry weight basis	Monitoring Frequency
Greater than zero but less than 290 (or 325 English ton)	once per year
Equal to or greater than 290 but less than 1,500 (English ton 325 to 1,680)	once per quarter (4 times per year)
Equal to or greater than 1,500 but less than 15,000 (English ton 1,680 to 16,800)	once per 60 days (6 times per year)
Equal to or greater than 15,000 (or 16,800 English ton)	once per month (12 times per year)

b. After the sewage sludge has been monitored for two years, the department may reduce the frequency of monitoring, but in no case shall the frequency of monitoring be less than once per year when sewage sludge is applied to the land.

67.8(4) *Record keeping for Class II sewage sludge.*

a. Both the generator and applicator of Class II sewage sludge shall develop the following information and shall retain the information for five years:

(1) The concentration of each pollutant listed in Table 3 in the sewage sludge.

(2) The following certification statement: "I certify, under penalty of law, that the Class II sewage sludge requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

(3) A description of how the Processes to Significantly Reduce Pathogens (PSRP) requirements are met.

(4) A description of how the vector attraction reduction requirements are met.

(5) A description of how the management practices for Class II sewage sludge are met for each site.

(6) The location and area of each site.

(7) The date and time and amount of sewage sludge applied to each site.

(8) If subjected to cumulative loading limits, the amount and cumulative amount of each pollutant listed in Table 4 of paragraph 67.8(2)*"b"* in the sewage sludge applied to each site.

(9) The amount of sewage sludge (i.e., metric tons) applied to each site.

b. Treatment works with a design flow rate of 1 million gallons per day or greater and treatment works that serve 10,000 people or more shall submit the above information to the department by February 19 of each year for the previous calendar year.

567—67.9(455B) Class III sewage sludge.

67.9(1) Class III sewage sludge is any sewage sludge that cannot meet either Class I sewage sludge criteria or Class II sewage sludge criteria.

67.9(2) Class III sewage sludge shall not be utilized for beneficial use for land application as specified in the chapter.

67.9(3) Class III sewage sludge shall be disposed according to the surface disposal subpart of the 40 CFR Part 503 regulation and 567—103.6(455B) or the incineration subpart of the 40 CFR Part 503 regulation.

567—67.10(455B) Sampling and analytical methods.

67.10(1) *General.* Representative samples of sewage sludge that are applied to the land shall be collected and analyzed. Methods listed below shall be used to analyze samples of sewage sludge and calculation procedures shall be used to calculate the percent of volatile solids reduction for sewage sludge.

67.10(2) *Enteric viruses.* ASTM Designation: D 4994-89, "Standard Practice for Recovery of Viruses From Wastewater Sludges," Annual Book of ASTM Standards: Section 11 - Water and Environmental Technology, ASTM, Philadelphia, PA, 1992.

67.10(3) *Fecal coliform.* Part 9221 E. or Part 9222 D., "Standard Methods for the Examination of Water and Wastewater," 18th Edition, American Public Health Association, Washington, D.C., 1992.

67.10(4) *Helminth ova.* Yanko, W.A., "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges," EPA 600/1-87-014, 1987. PB 88-154273/AS, National Technical Information Service, Springfield, Virginia.

67.10(5) *Inorganic pollutants.* "Test Methods for Evaluating Solid Waste, Physical/ Chemical Methods," EPA Publication SW-846, Second Edition (1982) with Updates I and II and Third Edition (1986) with Revision I. Second Edition - PB87-120-291, National Technical Information Service, Springfield, Virginia. Third Edition-Document number 955-001-00000-1, Superintendent of Documents, Government Printing Office, Washington, D.C.

67.10(6) *Salmonella sp. bacteria.* Part 9260 D., "Standard Methods for the Examination of Water and Wastewater," 18th Edition, American Public Health Association, Washington, D.C., 1992; or Kenner, B.A. and H.P. Clark, "Detection and Enumeration of Salmonella and Pseudomonas aeruginosa," J. Water Pollution Control Federation, 46(9):2163-2171, 1974.

67.10(7) *Specific oxygen uptake rate.* Part 2710 B., "Standard Methods for the Examination of Water and Wastewater," 18th Edition, American Public Health Association, Washington, D.C. 1992.

67.10(8) *Total, fixed, and volatile solids.* Part 2540 G., "Standard Methods for the Examination of Water and Wastewater," 18th Edition, American Public Health Association, Washington, D.C., 1992.

67.10(9) *Percent volatile solids reduction calculation.* "Environmental Regulations and Technology - Control of Pathogens and Vectors in Sewage Sludge," EPA-625/R-92/013, U.S. Environmental Protection Agency, Cincinnati, Ohio, 1992.

567—67.11(455B) Pathogen treatment processes.

67.11(1) *Processes to significantly reduce pathogens (PSRP).*

a. Aerobic digestion. Sewage sludge is agitated with air or oxygen to maintain aerobic conditions for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 40 days at 20 degrees Celsius and 60 days at 15 degrees Celsius.

b. Air drying. Sewage sludge is dried on sand beds or on paved or unpaved basins. The sewage sludge dries for a minimum of three months. During two of the three months, the ambient average daily temperature is above zero degrees Celsius.

c. Anaerobic digestion. Sewage sludge is treated in the absence of air for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 15 days at 35 to 55 degrees Celsius and 60 days at 20 degrees Celsius.

d. Composting. Using either the within-vessel, static aerated pile, or windrow composting methods, the temperature of the sewage sludge is raised to 40 degrees Celsius or higher and remains at 40 degrees Celsius or higher for five days. For four hours during the five days, the temperature in the compost pile exceeds 55 degrees Celsius.

e. Lime stabilization. Sufficient lime is added to the sewage sludge to raise the pH of the sewage sludge to 12 after two hours of contact.

67.11(2) *Processes to further reduce pathogens (PFRP).*

a. Composting. Using either the within-vessel composting method or the static aerated pile composting method, the temperature of the sewage sludge is maintained at 55 degrees Celsius or higher for three days.

Using the windrow composting method, the temperature of the sewage sludge is maintained at 55 degrees Celsius or higher for 15 days or longer. During the period when the compost is maintained at 55 degrees Celsius or higher, there shall be a minimum of five turnings of the windrow.

b. Heat drying. Sewage sludge is dried by direct or indirect contact with hot gases to reduce the moisture content of the sewage sludge to 10 percent or lower. Either the temperature of the sewage sludge particles exceeds 80 degrees Celsius or the wet bulb temperature of the gas in contact with the sewage sludge as the sewage sludge leaves the dryer exceeds 80 degrees Celsius.

c. Heat treatment. Liquid sewage sludge is heated to a temperature of 180 degrees Celsius or higher for 30 minutes.

d. Thermophilic aerobic digestion. Liquid sewage sludge is agitated with air or oxygen to maintain aerobic conditions and the mean cell residence time of the sewage sludge is ten days at 55 to 60 degrees Celsius.

e. Beta ray irradiation. Sewage sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20 degrees Celsius).

f. Gamma ray irradiation. Sewage sludge is irradiated with gamma rays from certain isotopes, such as Cobalt 60 and Cesium 137, at room temperature (ca. 20 degrees Celsius).

g. Pasteurization. The temperature of the sewage sludge is maintained at 70 degrees Celsius or higher for 30 minutes or longer.

h. Lime treatment.

(1) The pH of the sewage that is used or disposed shall be raised to above 12 and shall remain above 12 for 72 hours.

(2) The temperature of the sewage sludge shall be above 52 degrees Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12.

(3) At the end of the 72-hour period during which the pH of the sewage sludge is above 12, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50 percent.

These rules are intended to implement Iowa Code section 455B.174.

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CHAPTER 27
LANDS AND WATERS CONSERVATION FUND PROGRAM

[Prior to 12/31/86, Conservation Commission[290] Ch 72]

571—27.1(456A) Purpose. The purpose of the Federal Land and Water Conservation Fund, hereinafter referred to as the LWCF, is stated in Section 1(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 stat. 897):

"The purposes of this Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain lands and other areas."

Section 6 of the Act contains the basic requirements and conditions for fulfilling the above:

"The Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to provide financial assistance to the States from monies available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interest in land or waters, or (3) development."

Section 6 of the Act further provides that:

"If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency."

The Iowa department of natural resources, hereinafter referred to as the department, acting through its director, will administer the LWCF for the same purpose at the state and local levels.

571—27.2(456A) Apportionment distribution.

27.2(1) *Iowa apportionment.* The state expects to receive an annual apportionment from the LWCF. This annual apportionment, after deducting any amount necessary to cover the department's costs of administering the program and state outdoor recreation planning costs shall be divided into two shares for state and local entity grants with the local entity share being not less than 50 percent.

27.2(2) *Local share.* The local share of the annual LWCF apportionment shall be available for local entity grants on an annual basis.

571—27.3(456A) Eligibility requirements. The following eligibility requirements shall apply to local entities:

27.3(1) Participation in the LWCF shall be limited to county conservation boards and incorporated cities.

27.3(2) A local entity shall have assessed outdoor recreation supplies, demands and needs and shall have allowed for input by affected citizens within the service area of any proposed project and project applications shall include documentation of these planning processes.

571—27.4(456A) Assistance ceiling. Local entities are eligible to receive annual assistance from the LWCF in accordance with the following schedule:

Population of Area of Jurisdiction	LWCF Assistance Ceiling
0-1,000	$ 50,000
1,001-5,000	75,000
5,001-10,000	100,000
10,001-25,000	125,000

Population of Area of Jurisdiction	LWCF Assistance Ceiling
25,001-50,000	150,000
50,001-75,000	175,000
over 75,000	200,000

Exceptions to the above limits: The maximum grant for local entities with populations in excess of 25,000 shall be $125,000 for any swimming pool or golf course project. The maximum grant limit for local entities with populations of up to and including 10,000 shall be $125,000 for any land acquisition project.

The assistance ceiling may be waived upon approval by the director under the following circumstances:

1. The project being proposed for LWCF assistance is regional in nature or is expected to serve a minimum of 100,000 people.
2. The proposed project cannot be staged over a multiyear period so that a separate grant application might be submitted each year.

No grant shall be approved which exceeds the allotment for the review period.

571—27.5(456A) Grant application submission.

27.5(1) *Form of application.* Grant applications for both state and local projects shall be on forms and follow guidelines provided by the department. Projects selected for funding with land and water conservation assistance must be in accordance with state comprehensive outdoor recreation plan (SCORP) priorities.

27.5(2) *Application timing.* The following information applies to local projects only. Grant applications and amendment requests which increase the existing grant amount shall be reviewed and selected for funding on an annual basis as provided in subrule 27.2(2). Annual reviews shall be held in April. Applications must be received in acceptable form by the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, by the close of business on the work day closest to the fifteenth day of March.

27.5(3) *Local funding.* An applicant shall certify that it has committed its share of project costs. Cash donations must be on deposit and a bond issue must have been passed by the electorate if such passage is necessary if either or both is a source of local funding.

27.5(4) *Development project application.* An application for a development project grant shall include development on only one project site or area with the exception that an application may include development of a like nature only on several sites (e.g., tennis courts).

27.5(5) *Application timing.* The following applies only to state projects. Grant applications and amendments to existing approved projects which exceed 10 percent of the original grant amount will be reviewed, evaluated and submitted to the National Park Service for approval as soon as practicable upon notification of Iowa's apportionment.

27.5(6) *Application acceptance.* Applications for state projects will be accepted from the Iowa department of natural resources and any other state agency which submits an eligible project application.

571—27.6(456A) Project review and selection.

27.6(1) *Review and selection committee.* A five-member review and selection committee, hereinafter referred to as the committee, shall be composed of three staff members of the department as appointed by the director of the department, one member appointed by the director with input from the Iowa Association of County Conservation Boards, and one member appointed by the director of the department with input from the Iowa League of Cities and the Iowa Parks and Recreation Association. The committee shall determine which grant applications and amendment requests shall be selected for funding at the local level. A review and selection committee for state projects shall be composed of four staff members of the department as appointed by the director.

27.6(2) *Consideration withheld.* The committee will not consider any application which, on the date of the selection session, is not complete, or for which additional pertinent information has been requested and not received.

27.6(3) *Application rating system for local projects.* The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor for each, will be considered:

Criteria	Weight Factor
Relationship to SCORP priorities	5
Direct recreation benefits	1
Local need	1
Quality of site	1

Each criterion will be given a score of from 1 to 10 which is then multiplied by the weight factor. The following additional criteria will be considered in the rating system:

a. Prior assistance. Any applicant who has never received a grant will be given a bonus of five points. Any applicant who has received prior assistance which is more than its fair share will be assessed penalty points. Fair share will be computed by dividing 50 percent of Iowa's total apportionment from the LWCF by the total state population and multiplying this amount by the population of the applicant agency. Penalty points will be assessed in accordance with the following schedule:

Prior Assistance in Excess of Fair Share	Penalty Points
0 to $2.50 per capita	0
$ 2.51 to 12.50 per capita	1
12.51 to 22.50 per capita	2
22.51 to 32.50 per capita	3
32.51 to 42.50 per capita	4
over 42.50 per capita	5

b. Bonus points. Additional points will be added to the total score for the following:

(1) Projects which have special features for the elderly and handicapped above the normal access requirements for this population will receive three points.

(2) Projects which include the use of recycled content materials will receive two points.

(3) Projects which serve an area of greater minority population than the state average of 2.6 percent will receive points as follows:

Minority population greater than:	3.5 percent	1 point
	4.0 percent	2 points
	4.5 percent	3 points

(4) Projects which show evidence that the specific project has been through the normal channels of review and approval by proper local decision makers, thereby ensuring that public support and a commitment to develop and operate the facility are present and that the project under consideration is a part of (or does not conflict with) broader plans which exist, may receive up to three bonus points.

All points will be totaled for each application and those applications receiving the highest scores will be selected for fund assistance to the extent of the allotment for each review period. However, no application shall be selected which has received a score of less than 60. Such applications shall be returned to the applicant.

27.6(4) *Application rating system for state projects.* The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor assigned for each, will be considered:

Criteria	Weight Factor
SCORP priority	4
Quality of site	1
Renovation/rehabilitation project	1
Direct recreation benefits	1

Each criterion will be given a score from 0 to 10, which is then multiplied by the weight factor. Additional points will be added to the total score for the following:

Projects which have special features for the elderly and handicapped above the normal access requirements for this population will receive three points.

Projects which include the use of recycled content materials will receive two points.

Projects which serve an area of greater minority population than the state average of 2.6 percent will receive points as follows:

Minority population greater than:	3.5 percent	1 point
	4.0 percent	2 points
	4.5 percent	3 points

27.6(5) *Applications not selected for fund assistance.* Rescinded IAB 12/8/04, effective 1/12/05.

571—27.7(456A) Public participation. All regional planning agencies will be advised of the time and place of review sessions. Written comments will be accepted prior to each review session. A time period for public comment will be allowed immediately prior to each review session.

Potential applicants will be advised of any changes in the project evaluation and selection processes and criteria; but in any event, state agencies, regional planning agencies, county conservation boards and the Iowa League of Cities will be advised of the availability of program funding at least once every two years.

571—27.8(456A) Commission review. The natural resource commission will review all committee recommendations each review period at the next following commission meeting. The commission may reject any application selected for funding or approve any application not selected by the committee.

571—27.9(456A) Federal review. All applications selected for fund assistance shall be submitted to the administering federal agency for final review and grant approval.

571—27.10(456A) Grant amendments. Projects for which grants have been approved may be amended to increase or decrease project scope or to increase or decrease project costs and fund assistance. Amendments to increase project costs and fund assistance due to cost overruns will not be approved. A percentage of each year's appropriation may be reserved for amendments.

571—27.11(456A) Timely commencement of projects. Grant recipients are expected to carry out their projects in an expeditious manner. Projects for which grants are approved by the administering federal agency between January 1 and May 31 shall be commenced during the same calendar year. Projects for which grants are approved by the administering federal agency between June 1 and December 31 shall be commenced by June 1 of the following year. Failure to do so may be cause for termination of the project and cancellation of the grant.

571—27.12(456A) Project period. A project period which is commensurate with the work to be accomplished will be assigned to each project. Project period extensions will be granted only in a case of extenuating circumstances.

571—27.13(456A) Reimbursements.

27.13(1) *Grant amount.* Grant recipients will be reimbursed 50 percent of all eligible costs incurred on a project up to the amount of the grant.

27.13(2) *Project billings.* Grant recipients shall submit billings for reimbursements on forms provided by the department.

27.13(3) *Project billing frequency.* No more than two project billings plus a final project billing shall be allowed.

27.13(4) *Final project billing.* A final project billing shall be submitted within 90 days following the end of a project period. Failure to do so may be cause for termination of the project with no further reimbursement to the grant recipient.

27.13(5) *Documentation.* Grant recipients shall provide documentation as required by the department to substantiate all costs incurred on a project.

27.13(6) *Reimbursement withheld.* Ten percent of the total reimbursement due any grant recipient for a development project will be withheld pending a final site inspection or until any irregularities discovered as a result of a final inspection have been resolved.

571—27.14(456A) Ineligible items. The following items are ineligible for assistance from the LWCF:

27.14(1) Donated labor, materials, and equipment use.

27.14(2) Force account labor and equipment use. (A grant recipient's own personnel and equipment.)

27.14(3) Donated real property.

571—27.15(456A) Record keeping and retention. A grant recipient shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs. These records shall be available for audit by appropriate personnel of the department, the state auditor's office and the U.S. Department of the Interior.

These rules are intended to implement Iowa Code sections 456A.27 to 456A.35.

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[1] 27.6(3)*"b"*(3) and 27.6(4) editorially corrected IAC Supplement 4/13/16.

PHYSICAL AND OCCUPATIONAL THERAPISTS

CHAPTER 200
LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

[Prior to 3/6/02, see 645—200.3(147) to 645—200.8(147), 645—200.11(272C), and 645—202.3(147) to 645—202.7(147)]
[Prior to 12/24/03, see 645—ch 201]

645—200.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Assistive personnel" means any person who carries out physical therapy and is not licensed as a physical therapist or physical therapist assistant. This definition does not include students as defined in Iowa Code section 148A.3(2).

"Board" means the board of physical and occupational therapy.

"Department" means the department of public health.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Impairment" means a mechanical, physiological or developmental loss or abnormality, a functional limitation, or a disability or other health- or movement-related condition.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a physical therapist or physical therapist assistant in the state of Iowa.

"License expiration date" means the fifteenth day of the birth month every two years after initial licensure.

"Licensure by endorsement" means the issuance of an Iowa license to practice physical therapy to an applicant who is or has been licensed in another state.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of physical therapists or physical therapist assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"On site" means:

1. To be continuously on site and present in the department or facility where assistive personnel are performing services;

2. To be immediately available to assist the person being supervised in the services being performed; and

3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

"Physical therapist" means a person licensed under this chapter to practice physical therapy.

"Physical therapist assistant" means a person licensed under this chapter to assist in the practice of physical therapy.

"Physical therapy" means that branch of science that deals with the evaluation and treatment of human capabilities and impairments, including:

1. Evaluation of individuals with impairments in order to determine a diagnosis, prognosis, and plan of therapeutic treatment and intervention, and to assess the ongoing effects of intervention;

2. Use of the effective properties of physical agents and modalities, including but not limited to mechanical and electrotherapeutic devices, heat, cold, air, light, water, electricity, and sound, to prevent, correct, minimize, or alleviate an impairment;

3. Use of therapeutic exercises to prevent, correct, minimize, or alleviate an impairment;

4. Use of rehabilitative procedures to prevent, correct, minimize, or alleviate an impairment, including but not limited to the following procedures:

- Manual therapy, including soft-tissue and joint mobilization and manipulation;
- Therapeutic massage;
- Prescription, application, and fabrication of assistive, adaptive, orthotic, prosthetic, and supportive devices and equipment;
- Airway clearance techniques;
- Integumentary protection and repair techniques; and
- Debridement and wound care;

5. Interpretation of performances, tests, and measurements;

6. The establishment and modification of physical therapy programs;

7. The establishment and modification of treatment planning;

8. The establishment and modification of consultive services;

9. The establishment and modification of instructions to the patient, including but not limited to functional training relating to movement and mobility;

10. Participation, administration and supervision attendant to physical therapy and educational programs and facilities.

"PT" means physical therapist.

"PTA" means physical therapist assistant.

"Reactivate" or *"reactivation"* means the process as outlined in rule 645—200.15(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice physical therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—200.2(147) Requirements for licensure. The following criteria shall apply to licensure:

200.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

200.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

200.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy. The fees are nonrefundable.

200.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board of physical and occupational therapy have been received by the board. An applicant shall have successfully completed a physical therapy education program accredited by a national accreditation agency approved by the board.

200.2(5) Notification of eligibility for the examination shall be sent to the applicant by the board.

200.2(6) The candidate shall have the examination score sent directly from the testing service to the board.

200.2(7) Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

200.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—200.3(147) Requirements for practice prior to licensure. Rescinded IAB 12/19/07, effective 1/23/08.

645—200.4(147) Examination requirements for physical therapists and physical therapist assistants. The following criteria shall apply to the written examination(s):

200.4(1) The applicant shall take and pass the National Physical Therapy Examination (NPTE) or other nationally recognized equivalent examination as defined by the board.

200.4(2) The applicant shall abide by the following criteria:

a. For examinations taken prior to July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score exceeding 1.5 standard deviations below the national average.

b. For examinations completed after July 1, 1994, satisfactory completion shall be defined as receiving an overall examination score equal to or greater than the criterion-referenced passing point recommended by the Federation of State Boards of Physical Therapy.

200.4(3) Before the board may approve an applicant for testing beyond three attempts, an applicant shall demonstrate evidence satisfactory to the board of having successfully completed additional coursework. The Federation of State Boards of Physical Therapy (FSBPT) determines the total number of times an applicant may take the examination in a lifetime. The board will not approve an applicant for testing when the applicant has exhausted the applicant's lifetime opportunities for taking the examination, as determined by FSBPT.

200.4(4) The applicant shall be notified by the board in writing of examination results.

200.4(5) Special accommodations. To eliminate discrimination and guarantee fairness under Title II of the Americans with Disabilities Act (ADA), an individual who has a qualifying disability may request an examination accommodation.

a. Disability requirements. An applicant is an individual who has a physical or mental impairment that substantially limits that individual in one or more major life activities, who has a record of such a physical or mental disability, or who is regarded as having such a physical or mental impairment.

(1) Physical impairment, as defined by the ADA, means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(2) Mental impairment, as defined by the ADA, means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

b. To be considered an impairment that limits a major life activity, the disability shall impair an activity that an average person can perform with little or no difficulty, for example, walking, seeing, hearing, speaking, breathing, learning, performing manual tasks, caring for oneself, working, sitting, standing, lifting, or reading.

c. To verify the accommodation, the applicant must submit appropriate documentation that uses professionally recognized criteria; that details how the disability leads to functional limitations; and that illustrates how the limitation or limitations inhibit the individual from performing one or more major life activities.

d. An evaluator shall on the documentation provide a signature, verify the diagnosis, verify the professionally recognized test/assessment, and recommend the accommodation. The evaluator shall be a licensed health care professional, including but not limited to a physician who practices in a field that includes, but may not be limited to, neurology, family practice, orthopedics, physical medical medicine and rehabilitation, and psychiatry; or a psychologist who performs evaluations to assess individuals for mental disorders that might impact those individuals' academic or testing performance.

e. An accommodation shall not give the individual an unfair advantage over others taking the examination, shall not change the purpose of the examination, and shall not guarantee that the individual will pass the examination.

f. The board and staff shall maintain confidentiality of all medical and diagnostic information and records.

[**ARC 0094C**, IAB 4/18/12, effective 5/23/12; **ARC 1659C**, IAB 10/15/14, effective 11/19/14; **ARC 2481C**, IAB 4/13/16, effective 5/18/16]

645—200.5(147) Educational qualifications.

200.5(1) The applicant must present proof of meeting the following requirements for licensure as a physical therapist or physical therapist assistant:

a. Educational requirements—physical therapists. Physical therapists shall graduate from a physical therapy program accredited by a national accreditation agency approved by the board.

(1) If the degree is granted on or before January 31, 2004, the degree must be equivalent to at least a baccalaureate degree.

(2) If the degree is granted on or after February 1, 2004, the degree must be equivalent to a postbaccalaureate degree.

b. Educational requirements—physical therapist assistants. Physical therapist assistants shall graduate from a PTA program accredited by a national accreditation agency approved by the board.

200.5(2) Foreign-trained applicants shall:

a. Submit an English translation and an equivalency evaluation of their educational credentials through the following organization: Foreign Credentialing Commission on Physical Therapy, Inc., 124 West Street South, Third Floor, Alexandria, VA 22314; telephone (703)684-8406; Web site www.fccpt.org. The credentials of a foreign-educated physical therapist or foreign-educated physical therapist assistant licensure applicant should be evaluated using the version of the Federation of State Boards of Physical Therapy (FSBPT) Coursework Tool (CWT) that covers the date the applicant graduated from the applicant's respective physical therapist or physical therapist assistant education program. A credentialing agency should use the version for the CWT that coincides with the professional educational criteria that were in effect on the date the applicant graduated from the applicant's respective physical therapy education program. This same process should be used for first-time licensees and for those seeking licensure through endorsement. The professional curriculum must be equivalent to the Commission on Accreditation in Physical Therapy Education standards. An applicant shall bear the expense of the curriculum evaluation.

b. Submit certified proof of proficiency in the English language by achieving on the Test of English as a Foreign Language (IBT-TOEFL) a total score of at least 89 on the Internet-based TOEFL as well as

accompanying minimum scores in the four test components as follows: 24 in writing; 26 in speaking; 21 in reading comprehension; and 18 in listening comprehension. This examination is administered by Educational Testing Services, Inc., P.O. Box 6157, Princeton, NJ 08541-6157. An applicant shall bear the expense of the TOEFL examination. Applicants may be exempt from the TOEFL examination when the native language is English, physical therapy education was completed in a school approved by the Commission on Accreditation in Physical Therapy Education (CAPTE), language of instruction in physical therapy was English, language of the textbooks was English, and the applicant's transcript was in English.

c. Submit an official statement from each country's or territory's board of examiners or other regulatory authority regarding the status of the applicant's license, including issue date, expiration date and information regarding any pending or prior investigations or disciplinary action. The applicants shall request such statements from all entities in which they are currently or formerly licensed.

d. Receive a final determination from the board regarding the application for licensure.

[**ARC 9328B**, IAB 1/12/11, effective 2/16/11; **ARC 0094C**, IAB 4/18/12, effective 5/23/12]

645—200.6(272C) Supervision requirements.

200.6(1) Physical therapist supervisor responsibilities. The supervisor shall:

a. Provide supervision to a PTA.

b. Provide on-site supervision or supervision by telecommunication as long as the physical therapy services are rendered in accordance with the minimum frequency standards set forth in subrule 200.6(4).

c. Assume responsibility for all delegated tasks and shall not delegate a service which exceeds the expertise of the PTA.

d. Provide evaluation and development of a treatment plan for use by the PTA.

e. Supervise not more than the equivalent of two full-time PTAs, not to exceed four part-time PTAs, who are providing physical therapy per calendar day, including supervision by telecommunication.

f. Rescinded IAB 12/19/07, effective 1/23/08.

g. Ensure that a PTA under the PT's supervision has a current license to practice as a PTA.

h. Rescinded IAB 12/19/07, effective 1/23/08.

i. Ensure that the signature of a PTA on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a PTA.

200.6(2) The following are functions that only a physical therapist may provide and cannot be delegated to a PTA:

a. Interpretation of referrals;

b. Initial physical therapy evaluation and reevaluations;

c. Identification, determination or modification of patient problems, goals, and care plans;

d. Final discharge evaluation and establishment of the discharge plan;

e. Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;

f. Delegation of and instruction in the services to be rendered by the PTA or other assistive personnel including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures; and

g. Timely review of documentation, reexamination of the patient and revision of the plan when indicated.

200.6(3) Supervision of other assistive personnel. PTs are responsible for patient care provided by assistive personnel under their supervision. Physical therapy aides and other assistive personnel shall not provide independent patient care unless each of the following standards is satisfied:

a. The supervising PT has physical participation in the patient's treatment or evaluation, or both, each treatment day;

b. The assistive personnel may provide independent patient care only while under the on-site supervision of the supervising PT;

c. Documentation made in physical therapy records by unlicensed assistive personnel shall be cosigned by the supervising PT; and

d. The PT provides periodic reevaluation of assistive personnel's performance in relation to the patient.

200.6(4) The PT must provide patient evaluation and participate in treatment based upon the health care admission or residency status of the patient being treated. Participation shall include direct client contact according to the following schedule:

Patient's Health Care Residency or Admission Status	Maximum of Physical Therapist Delegation (whichever comes first)
Hospital, acute care	3 visits or 2 consecutive calendar days
Hospital, non-CARF	3 visits or 2 consecutive calendar days
Hospital, CARF-accredited beds	4 visits or 4 consecutive calendar days
Skilled nursing	4 visits or 7 consecutive calendar days
Home health	4 visits or 9 consecutive calendar days
Nursing facility	9 visits or 9 consecutive calendar days
Iowa educational agency	4 visits or 29 consecutive calendar days
Other facility/admissions status	4 visits or 9 consecutive calendar days

Calendar days include weekends and holidays.

200.6(5) Physical therapist assistant responsibilities. The physical therapist assistant:

a. Shall provide only those services for which the PTA has the skills necessary and shall consult the supervising physical therapist if the procedures are believed not to be in the best interest of the patient;

b. Shall gather data relating to the patient's disability, but not interpret the data as it pertains to the plan of care;

c. Shall communicate any change, or lack of change, which occurs in the patient's condition and which may need the assessment of the PT;

d. Shall provide physical therapy services only under the supervision of the physical therapist;

e. Shall provide treatment only after evaluation and development of a treatment plan by the physical therapist;

f. Shall refer inquiries that require interpretation of patient information to the physical therapist;

g. May have on-site or immediate telecommunicative supervision as long as the physical therapy services are rendered in accordance with the minimum frequency standards set forth in subrule 200.6(4); and

h. May receive supervision from any number of physical therapists.

i. Shall record on every patient chart the name of the PTA's supervisor for each treatment session.

The signature of a PTA on a physical therapy treatment record indicates that the physical therapy services were provided in accordance with the rules and regulations for practicing as a PTA.

200.6(6) Other assistive personnel. Physical therapy aides and other assistive personnel may assist a PTA in providing patient care in the absence of a PT only if the PTA maintains in-sight supervision of the physical therapy aide or other assistive personnel and the PTA is primarily and significantly involved in that patient's care.

645—200.7(147) Licensure by endorsement.

200.7(1) An applicant who has been a licensed PT or PTA under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

a. Submits to the board a completed application;

b. Pays the licensure fee;

c. Shows evidence of licensure requirements that are similar to those required in Iowa;

d. Submits a copy of the scores from the appropriate professional examination to be sent directly from the examination service to the board;

e. Provides official copies of the academic transcripts sent directly from the school to the board; and

f. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

(1) Licensee's name;

(2) Date of initial licensure;

(3) Current licensure status; and

(4) Any disciplinary action taken against the license.

200.7(2) In addition to the requirements of 200.7(1), a physical therapist applicant shall:

a. Have completed 40 hours of board-approved continuing education during the immediately preceding two-year period; or

b. Have practiced as a licensed physical therapist for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Have served the equivalent of one year as a full-time faculty member teaching physical therapy in an accredited school of physical therapy for at least one of the immediately preceding two years; or

d. Have successfully passed the examination within a period of one year from the date of examination to the time application is completed for licensure.

200.7(3) In addition to the requirements of 200.7(1), a physical therapist assistant applicant shall:

a. Have completed 20 hours of board-approved continuing education during the immediately preceding two-year period; or

b. Have practiced as a licensed physical therapist assistant for a minimum of 2,080 hours during the immediately preceding two-year period; or

c. Have successfully passed the examination for physical therapist assistants within a period of one year from the date of examination to the time application for licensure is completed.

200.7(4) Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

200.7(5) An applicant for licensure under subrule 200.7(1) must include with this application a sworn statement of previous physical therapy practice from an employer or professional associate, detailing places and dates of employment and verifying that the applicant has practiced physical therapy at least 2,080 hours or taught as the equivalent of a full-time faculty member for at least one of the immediately preceding years during the last two-year time period.

200.7(6) Foreign-trained applicants applying for licensure by endorsement shall also meet the requirements outlined in subrule 200.5(2).

645—200.8(147) Licensure by reciprocal agreement. Rescinded IAB 12/17/08, effective 1/21/09.

645—200.9(147) License renewal.

200.9(1) The biennial license renewal period for a license to practice as a physical therapist or physical therapist assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

200.9(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

200.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—203.2(148A) and the mandatory reporting requirements of subrule 200.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

200.9(4) Mandatory reporter training requirements.

a. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years of condition(s) for waiver of this requirement as identified in paragraph *"e."*

b. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph *"e."*

c. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirements as identified in paragraph *"e."*

Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to *"e."*

200.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

200.9(6) Persons licensed to practice as physical therapists or physical therapist assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

200.9(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.13(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

200.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a physical therapist or a physical therapist assistant in Iowa until the license is reactivated. A licensee who practices as a physical therapist or a physical therapist assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[**ARC 0094C**, IAB 4/18/12, effective 5/23/12]

645—200.10(272C) Exemptions for inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—200.11(272C) Lapsed licenses. Rescinded IAB 9/14/05, effective 10/19/05.

645—200.12(147) Duplicate certificate or wallet card. Rescinded IAB 12/17/08, effective 1/21/09.

645—200.13(147) Reissued certificate or wallet card. Rescinded IAB 12/17/08, effective 1/21/09.

645—200.14(17A,147,272C) License denial. Rescinded IAB 12/17/08, effective 1/21/09.

645—200.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

200.15(1) Submit a reactivation application on a form provided by the board.

200.15(2) Pay the reactivation fee that is due as specified in 645—subrule 5.13(5).

200.15(3) Provide verification of current competence to practice physical therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 20 hours of continuing education for a physical therapy assistant and 40 hours of continuing education for a physical therapist within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 40 hours of continuing education for a physical therapy assistant and 80 hours of continuing education for a physical therapist within two years of application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

645—200.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 200.15(17A,147,272C) prior to practicing physical therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148A and 272C.

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[Filed ARC 0094C (Notice ARC 9972B, IAB 1/11/12), IAB 4/18/12, effective 5/23/12]
[Filed ARC 1659C (Notice ARC 1559C, IAB 7/23/14), IAB 10/15/14, effective 11/19/14]
[Filed ARC 2481C (Notice ARC 2368C, IAB 1/20/16), IAB 4/13/16, effective 5/18/16]

◊ Two or more ARCs

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Rules transferred from agency number 680 to 661 to conform with the reorganization numbering scheme in general

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[Ch 5 as appeared in July 1974 IDR Supplement, rescinded June 30, 1975]
[Prior to 4/20/88, Public Safety Department [680] Ch 5]
[Prior to 11/18/09, see 661—Ch 5]

661—200.1(100) Description. The fire marshal division is created within the department of public safety. The division headquarters is located in the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The main telephone number for the division is (515)725-6145. The general E-mail address for the division is fminfo@dps.state.ia.us.

200.1(1) The director of the division is the state fire marshal, who is appointed by and reports to the commissioner of public safety. There is an assistant fire marshal, appointed by the fire marshal, who also serves as chief of the arson and explosives bureau. The assistant fire marshal may act in place of the state fire marshal if the state fire marshal position is vacant or the state fire marshal is absent or unavailable.

200.1(2) The division includes the following four bureaus:

a. Arson and explosives bureau.
b. Fire prevention bureau.
c. Fire service training bureau.
d. Building code bureau.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—200.2(100) General administrative procedures. The provisions of 661—Chapter 10 are adopted by reference with the following amendments:

1. Wherever the term "department of public safety" appears, delete the term and replace it with "state fire marshal."
2. Wherever the term "commissioner of public safety" appears, delete the term and replace it with "state fire marshal."

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—200.3(100) Building plan approval and plan review fees. Plans for the proposed construction of certain new buildings or additions, alterations or changes to existing buildings require the approval of the fire marshal and shall be submitted to the building code bureau.

200.3(1) Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the building code bureau, unless the plans have been submitted to a local fire or building department for approval based upon compliance with the rules of the fire marshal or a local fire ordinance recognized in rule 661—201.5(100):

a. Any educational building or facility serving kindergarten through twelfth grade,
b. Any college or university building or facility,
c. Any child care facility intended to serve seven or more children at one time,
d. Any correctional facility, or
e. Any gaming facility.

200.3(2) Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the building code bureau for approval based upon compliance with rules of the fire marshal:

a. Any facility housing an adult day service,
b. Any assisted living facility,
c. Any residential care facility,
d. Any elder group home, or
e. Any facility owned by the state or an agency of the state.

200.3(3) Plans for initial construction or alterations, changes, additions, renovations or remodeling of any building or facility subject to the provisions of 661—Chapter 205 shall be submitted to the building code bureau.

200.3(4) Building plan submittals.

a. Working plans and specifications. When approval of building construction projects is required by this chapter or when requested by the submitter for other building construction projects covered by this chapter, one complete set of the final working plans and specifications shall be submitted to the building code bureau. The submittal shall comply with Iowa Code chapters 542B and 544A and with 661—subrule 300.4(1). Each submittal shall be examined, and the submitter shall be notified of the findings. If the working plans and specifications comply with this chapter, an approval letter shall be sent to the submitter.

b. Shop drawings. Shop drawings, equipment specifications and supporting documentation for fire alarm and sprinkler systems shall be submitted for review and approval and signed by a responsible managing employee licensed in accordance with Iowa Code chapter 100C. If the system is being installed as part of a project which has been designed by an engineer or architect, the submittal shall be approved by the responsible architect or engineer prior to submittal to the fire marshal. Each submittal shall be examined, and the submitter shall be notified of the findings. Only one copy of shop drawings, equipment specifications and supporting documentation is required. Staff of the building code bureau shall send a letter of approval to the submitter in lieu of returning approved shop drawings.

c. Changes. No changes shall be made to the approved final working plans and specifications or shop drawings unless the changes are submitted to and approved by the building code bureau.

200.3(5) If the blueprints and specifications are not acceptable, the building code bureau shall notify the submitter of the deficiencies and request that the submitter either forward changes or request a review of the blueprints and specifications with the building code bureau.

200.3(6) If, after such review, the submitter disputes the findings of the plan reviewer, the submitter may request that the disputed questions be reviewed by the building code commissioner and the chief of the fire prevention bureau.

200.3(7) If the submitter disputes the findings of the building code commissioner and the chief of the fire prevention bureau, the submitter may appeal to the fire marshal under the provisions of rule 661—200.2(100).

200.3(8) 661—subrule 300.4(2), paragraphs *"b"* and *"c,"* are adopted by reference.

NOTE: 661—subrule 300.4(2) establishes fees for plan reviews.

200.3(9) The responsible design professional for a project shall schedule a preliminary meeting with the building code bureau to discuss code compliance issues early in the design development phase. The responsible design professional shall contact the bureau to schedule the preliminary meeting. There is no separate fee for a preliminary meeting. If the responsible design professional plans to request approval to bid the project as part of the preliminary meeting, the responsible design professional shall request a copy of the document "Preliminary Meeting Checklist" at the time the meeting is scheduled and shall be prepared to address all applicable issues identified on the checklist at the preliminary meeting. Approval to bid the project shall not be given unless all applicable issues identified on the checklist have been addressed to the satisfaction of the state fire marshal or the state fire marshal's designee.

200.3(10) A construction project that is subject to a provision of this chapter or 661—Chapter 201 that requires compliance with a provision of the 2015 edition of any code published by the International Code Council may comply with either the current requirements of this chapter and 661—Chapter 201 or the provisions of this chapter and 661—Chapter 201 as they applied prior to July 1, 2016, if construction has commenced on or prior to September 30, 2016. "Commenced" means the submitter has received preliminary approval of the plans. If a construction project receives preliminary approval based upon the provisions of this chapter and 661—Chapter 201 as they applied prior to July 1, 2016, then final approval must be received on or prior to December 31, 2016.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10; **ARC 2494C**, IAB 4/13/16, effective 5/18/16]

661—200.4(100,101,101A) Inspections and inspection fees. Certain buildings, facilities, and installations as designated in the Iowa Code are required to comply with the Iowa Code and rules of the fire marshal. The fire marshal determines and enforces such compliance. To do so, the fire marshal or any employee of the fire marshal or local fire department authorized by the fire marshal may enter such building or premises at any time without notice to inspect it.

200.4(1) An inspection may be of a particular system in the building, facility, or installation, or the inspection may include the entire building, facility, or installation.

200.4(2) An inspection to evaluate compliance with the rules of the fire marshal shall be conducted by the fire marshal or by a consultant as requested by the fire marshal. A consultant is a person with the necessary degree of training, education or experience to examine a system within a building required to be in compliance with the rules of the fire marshal and determine if such system or systems are in compliance with such requirements. If a consultant who is not employed by the fire marshal is engaged to conduct an inspection, the consultant shall be accompanied by an employee of the fire marshal or of a local fire department while conducting the inspection.

200.4(3) Inspections shall be conducted without announcement and occur on a random basis, upon request, in response to a complaint or to investigate a suspected fire hazard.

200.4(4) An employee of the fire marshal or an employee of a local fire department acting on behalf of the fire marshal, upon arriving at a building, facility, or installation in order to conduct an inspection, shall advise the owner or the person in control of the building, if that person is available. If a person in such a position cannot be contacted, the inspection shall commence in any event. If the owner or the owner's representative wishes to accompany the employee during the inspection, the owner or the owner's representative may do so, provided that the inspection is not delayed.

200.4(5) Upon completion of an inspection, the employee or consultant may complete a written inspection order if any violations or deficiencies are discovered. The order shall be signed by the employee and, if prepared by a consultant, shall also be signed by the consultant.

200.4(6) Upon completion of the inspection, if the building, facility, or installation does not comply with applicable laws or rules, the employee or consultant shall identify specific provisions with which the building, facility, or installation does not comply and shall notify the owner. The owner may be ordered to correct or repair the deficiency. The owner may order the building, facility, or installation removed or demolished, in lieu of correcting the deficiency.

a. Copies of the notice of deficiencies or order shall be distributed to the fire marshal's office and the fire department having jurisdiction. The employee or consultant signing the order shall retain a copy.

b. The time allowed to comply with the order shall be determined by the employee or consultant, who shall consider the likelihood that a fire may occur, the possibility of personal injury or property loss, the cost and availability of materials and labor to correct, repair, remove or demolish, and other relevant information.

c. If the owner of the building, facility, or installation does not agree with the deficiency findings and order, the owner may appeal the order to the fire marshal under rule 661—200.2(100).

200.4(7) Inspection fees. The following fees shall apply respectively to inspections of the facilities of the types listed where a certificate of inspection from the fire marshal is required in order to obtain licensure or certification under Iowa law. The inspection fee shall be paid by check made payable to the Fire Marshal Division, Iowa Department of Public Safety. If a certificate of occupancy is required for use of the building, facility, or installation, the certificate shall not be issued until the inspection fee has been paid.

a. The inspection fee for a hospital or health care facility licensed or seeking licensure pursuant to Iowa Code chapter 135B or 135C or a group home licensed or seeking licensure in this state is $2.50 per bed.

b. The inspection fee for an elder group home certified or seeking certification pursuant to Iowa Code chapter 231B or an assisted living facility licensed or seeking licensure pursuant to Iowa Code chapter 231C is $10 per bed.

c. The inspection fee for an adult day services program certified or seeking certification pursuant to Iowa Code chapter 231D is $75 per facility.

d. The inspection fee for a child care facility licensed or seeking licensure pursuant to Iowa Code chapter 237A is $25 per facility.

e. When an initial inspection which requires a fee pursuant to paragraphs *"a," "b,"* or *"c"* of this subrule results in a finding of a deficiency or deficiencies which require a reinspection, the initial reinspection shall be performed without the imposition of any additional fee. If the original deficiency

or deficiencies have not been corrected at the time of the initial reinspection, then a fee of $125 for each additional reinspection after the initial reinspection is required until the original deficiency or deficiencies have been corrected.

f. The fee for a suitability inspection of a prospective site for a building, facility, or installation which may seek licensure or certification from the state of Iowa is $150.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10; **ARC 2494C**, IAB 4/13/16, effective 5/18/16]

661—200.5(100) Certificates for licensure. Several Iowa statutes provide that a license to conduct certain functions may not be issued until the fire marshal has approved the building, facility, or installation to be used for such function. Upon completion of an inspection showing the building, facility, or installation to be in compliance with applicable rules of the fire marshal, the owner or the owner's agent may request the issuance of a certificate of occupancy specifying that the building, facility, or installation is approved for the specific use requiring licensure. Upon receipt of the request, provided that the building, facility, or installation is found to be in compliance with applicable rules of the fire marshal and all applicable fees have been paid, the fire marshal shall issue such a certificate. If the building, facility, or installation is found not to be in compliance, the person requesting the certificate may file a petition requesting a review, and the same procedure is used as if an order were being appealed. Upon completion of the appeal process, if the building, facility, or installation is found to be in compliance, a certificate will then be issued.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—200.6(100) Fire investigations.

200.6(1) The fire marshal has the authority to investigate any fire in the state of Iowa.

a. The fire marshal may initiate an investigation of any fire at the discretion of the fire marshal.

b. Any local fire or law enforcement official may request the fire marshal to investigate any fire. Such investigation shall be undertaken at the discretion of the fire marshal.

200.6(2) Local fire officials have the primary responsibility to and shall investigate fires. A local fire official who investigates a fire shall file a report of each fire investigated with the fire marshal division within one week of the fire even if the fire marshal division participated in, assisted with, directed or supervised the fire investigation. Upon written request, the fire marshal may grant an extension of the time for filing this report for a period not to exceed 14 days. The request shall set forth compelling reasons for such extension.

200.6(3) A local fire official who investigates a fire shall immediately report a fire that involves death or suspected arson and shall do so by contacting the member of the fire marshal division assigned to that area or, if that member is not available, another member of the fire marshal division. If direct contact with the fire marshal division is impractical, the local fire official may request the county sheriff to relay the information to the fire marshal division via Iowa state patrol communications.

200.6(4) The notice of a fire involving death or arson shall contain the following information, if known:

a. The date, time, and address of the fire;

b. If death has occurred or is suspected, the name, age and address of the person or persons deceased or missing;

c. The suspected cause of the fire;

d. If arson is suspected, the reasons for suspecting arson, whether there is obvious evidence of arson, and if there is an arson suspect; and

e. Whether an explosion occurred.

200.6(5) The fire marshal may assist a local officer in the investigation of any fire. The fire marshal may direct, conduct, or assist in the investigation of a fire and may arrange for the participation of a consultant in the investigation.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—200.7(100) Fire drills. All public and private school officials and teachers shall conduct fire drills in all school buildings as specified in Iowa Code section 100.31 when school is in session. All doors and

exits of their respective rooms and buildings shall remain unlocked during school hours or when such areas are being used by the public at other times.
[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—200.8(100) Inspection based on complaint.

200.8(1) *Request for inspection.* A person requesting the inspection of a building, facility, or installation that is alleged to require repair, removal or demolition because it presents a significant fire hazard shall provide the following information, if known:

a. The address of the building, facility, or installation;

b. The name and address of the building's, facility's, or installation's owner;

c. The requester's name, address and telephone number; and

d. A general description of the alleged deficiencies for which the requester seeks remedy.

200.8(2) *Initial determination.* The fire marshal, upon receipt of the information, shall make an initial determination whether there are sufficient allegations to warrant an inspection.

a. If, in the fire marshal's opinion, the complaint fails to warrant an inspection, the fire marshal shall so advise the complainant.

b. If the fire marshal determines that an inspection is warranted, the fire marshal shall so advise the county attorney, the requester and the person(s) identified as the owner(s).

200.8(3) *Cause to be inspected.* After initial determination, the fire marshal shall cause the inspection of the building, facility, or installation to determine if:

a. By want of proper repair, or by reason of age and dilapidated condition, the building, facility, or installation is especially liable to fire and is so situated as to endanger other buildings, facilities, installations, property or persons, or

b. The building, facility, or installation contains combustibles, explosives or flammable materials dangerous to the safety of any buildings, premises or persons.

200.8(4) *Final decision.* Upon completion of the inspection, the fire marshal shall decide if the building, facility, or installation needs to be removed or repaired.

a. If the building, facility, or installation complies with applicable laws or rules and no deficiencies are found, the fire marshal shall accordingly notify the county attorney, the owner and the requester.

b. If any deficiencies are found, and the building, facility, or installation is within the corporate limits of a city, the fire marshal shall notify the mayor and clerk of said city of the deficiencies and the need for repairs or removal.

c. If any deficiencies are found, and the building, facility, or installation is outside the corporate limits of any city, the fire marshal shall specifically identify such deficiencies and prepare an order to correct or repair the deficiencies or remove or demolish the building, facility, or installation. Such notice and order shall be sent to the county attorney with a request that the notice and order be examined by the county attorney.

NOTE: An owner who receives an order from the fire marshal may appeal the order using procedures established in rule 661—200.2(100).

200.8(5) *Verification of legal description.* The county attorney shall, upon receipt of the fire marshal's notice and order, verify the legal description and identification of the property owner and shall advise the fire marshal how to properly serve the order.

200.8(6) *Contents of order.* The order shall notify the owner of the building, facility, or installation that the order becomes effective upon its receipt or issuance. The order shall also notify the owner that, within five days after the order's effective date, the owner may file a petition for review of the order in accordance with Iowa Code section 100.14.

200.8(7) *Who shall be served.* If the county attorney deems it appropriate, any occupants, lienholders or lessees shall be served with a copy of the order.

200.8(8) *Reasonable time to comply.* The order shall give the owner a reasonable time to comply with its mandate(s). The fire marshal shall determine what constitutes a reasonable time by considering the likelihood of fires, the possibility of personal injury or property loss, the cost, availability of materials

and labor to correct, repair, remove or demolish the building, facility, or installation and other reasonable, relevant information.

200.8(9) *Reinspection.* If the owner of the building, facility, or installation elects not to challenge the fire marshal's order, the fire marshal shall, at the end of the period during which compliance was required, conduct another inspection of the building, facility, or installation.

a. If the fire marshal finds that the order has been complied with, the fire marshal shall notify the county attorney, owner and requester of this fact.

b. If the fire marshal finds that the order has not been complied with, the fire marshal shall notify the county attorney of noncompliance.

NOTE: An owner who receives a notice of noncompliance from the fire marshal may appeal the notice using procedures established in rule 661—200.2(100).

200.8(10) *Failure to comply.* Upon receipt from the fire marshal of notice of the owner's failure to comply, the county attorney shall:

a. Institute the procedure necessary to subject the owner to a penalty of $10 for each day the owner fails to comply, and

b. Confirm the legal description of the property; the owner's name and address; the alleged deficiencies of the building, facility, or installation; that an inspection was conducted; that some deficiency was found; that the owner was properly served, notified and given an adequate opportunity to repair the deficiency; and that the deficiency has not been remedied, and

c. Advise the fire marshal that destruction is appropriate.

200.8(11) *Final action taken.* The fire marshal, upon the advice of the county attorney, may repair, remove or destroy the building, facility, or installation. Such destruction may occur by:

a. Permitting the local fire service to burn the building, facility, or installation as a training exercise;

b. Asking for public bids on the building, facility, or installation; or

c. If significant costs are anticipated, the fire marshal may request funds from the Iowa executive council.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—200.9(100A) Sharing of insurance company information with the fire marshal. Insurance companies shall provide specified information to the fire marshal as follows:

200.9(1) Whenever an insurance company has reason to believe that a fire loss insured by the company was caused by something other than an accident, the insurance company shall provide to the fire marshal, or some other agency authorized to receive such information under Iowa Code chapter 100A, all information and material possessed by the company relevant to an investigation of the fire loss or a prosecution for arson.

200.9(2) Whenever the fire marshal, or an agent or employee of the fire marshal, requests in writing that an insurance company provide information in its possession regarding a fire to the fire marshal, the insurance company shall provide all relevant information requested. Relevant information may include, but need not be limited to:

a. Insurance policy information relating to a fire loss under investigation, including information on the policy application.

b. Policy premium payment records.

c. History of previous claims made by the insured.

d. Material relating to the investigation of the loss, including the statement of any person, proof of loss, and other information relevant to the investigation.

200.9(3) Unless otherwise expressly limited, any request for information under this rule shall be construed to be a request for all information in the possession of an insurance company. Any information in the custody or control of any agent, employee, investigator, attorney or other person engaged, on a permanent or temporary basis, by an insurance company in the person's professional relationship to the

insurance company shall be considered to be in the possession of the insurance company subject to this rule.
[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—200.10(100A) Release of information to an insurance company. An insurance company that has provided fire loss information to an authorized agency pursuant to Iowa Code section 100A.2 may request information relevant to the fire loss investigation from the fire marshal. If the insurance company has provided information to an authorized agency other than the fire marshal, the request shall include proof that information was provided. For purposes of this rule, the term "insurance company" shall include an attorney, adjuster or investigator engaged by the company in reference to the particular fire loss involved in the request even though the attorney, adjuster or investigator is not a full-time employee of the insurance company. The attorney, adjuster or investigator shall provide the fire marshal with proof of authorization from the insurance company to act as its representative relative to the loss.
[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—200.11(100A) Forms. These rules require the use of the following forms that are available from the state fire marshal.

200.11(1) When an insurance company has reason to believe that a fire loss has occurred, the company shall notify the fire marshal on the form entitled Insurance Form Number One.

200.11(2) Requests for information by the fire marshal, the fire marshal's agents or employees from an insurance company pursuant to Iowa Code section 100A.2 shall comply with the form entitled Insurance Form Number Two.

200.11(3) Material requested on Insurance Forms Number One and Two shall carry a cover form which complies with Insurance Form Number Three.

200.11(4) Requests for information by an insurance company from the fire marshal shall comply with Insurance Form Number Four.
[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapters 100, 101 and 101A.

[Filed ARC 8307B (Notice ARC 8156B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]
[Filed ARC 2494C (Notice ARC 2266C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]

CHAPTER 201
GENERAL FIRE SAFETY REQUIREMENTS

661—201.1(100) Scope. The provisions of this chapter apply to all buildings, structures and facilities that are subject to the jurisdiction of the state fire marshal unless the building, structure, or facility is subject to the provisions of 661—Chapter 202, 661—Chapter 205, 661—Chapter 221, or 661—Chapter 231.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10]

661—201.2(100) General provisions. The following publications or indicated portions thereof are hereby adopted by reference as general fire safety requirements and shall apply to all occupancies other than those to which provisions specific to an occupancy explicitly exclude these provisions or any individual provision contained therein. Additionally, refer to rule 661—301.8(103A).

201.2(1) International Fire Code, 2015 edition, published by the International Code Council, 1500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, with the following amendments:

a. Delete section 103 and sections contained therein, section 104 and sections contained therein, section 105 and sections contained therein, section 106 and sections contained therein, section 107 and sections contained therein, section 108 and sections contained therein, section 109 and sections contained therein, section 110 and sections contained therein, section 111 and sections contained therein, section 112, and section 113 and sections contained therein.

b. Delete section 301.2.

c. Delete section 307.2.

d. Delete section 307.3 and insert in lieu thereof the following new section:

307.3 Extinguishment Authority. The state fire marshal or an employee of the fire marshal division authorized to do so by the fire marshal, or local fire chief or member of the local fire department authorized to do so by the fire chief, is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

e. Delete section 308.1.4 and insert in lieu thereof the following new section:

308.1.4 Open Flame Cooking Devices. Charcoal burners and ash- or coal-producing devices shall not be operated on combustible balconies or within 10 feet of combustible construction.

Exceptions:

1. One- and two-family dwellings.
2. LP-gas burners connected to one (1) 20-pound LP-gas container.
3. Where buildings, balconies and decks are protected by an automatic sprinkler system.

f. Delete section 315.3.3 and insert in lieu thereof the following new section:

315.3.3 Equipment Rooms. Combustible material shall not be stored in boiler rooms, mechanical rooms, or electrical equipment rooms or in fire command centers as specified in Section 508.1.5.

Exception: In sprinklered equipment rooms that have sufficient space to allow a minimum of 10 feet between all combustible storage and the heating, mechanical or electrical equipment in the room.

g. Delete section 405.2 and table 405.2 and insert in lieu thereof the following new section and new table:

405.2 Frequency. Required emergency evacuation drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure.

TABLE 405.2
FIRE AND EVACUATION DRILL FREQUENCY AND PARTICIPATION

GROUP OR OCCUPANCY	FREQUENCY	PARTICIPATION
Group A	Quarterly	Employees
Group B[c]	Annually	Employees
Group E	See [a] below	All occupants
Group I	Quarterly on each shift	Employees
Group I-1[b] and Group R-4	Quarterly	All occupants
Group R-1	Quarterly on each shift	Employees
Group R-2[d]	Four annually	All occupants
High-rise	Annually	Employees

Footnotes:
[a] Fire and severe weather drills shall be conducted in accordance with Iowa Code chapter 100. In severe climates, the fire code official shall have the authority to modify the emergency evacuation drill frequency.
[b] Fire and evacuation drills in assisted living facilities shall include complete evacuation of the premises in accordance with Section 403.10.3.6. Drills shall be conducted not less than six times per year on a bimonthly basis, with not less than two drills conducted during the night when residents could reasonably be expected to be sleeping. The drills shall be permitted to be announced in advance to the residents. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.
[c] Group B buildings that have an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.
[d] Applicable to Group R-2 college and university buildings in accordance with Section 408.3.

h. Delete section 807.5.2.1 and insert in lieu thereof the following new section:

807.5.2.1 Storage in corridors and lobbies. Clothing and personal effects shall not be stored in corridors and lobbies.

Exceptions:

1. Corridors protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.
2. Storage in metal lockers, provided the minimum required egress width is maintained.

i. Delete section 903.2.8 and insert in lieu thereof the following new section:

903.2.8 Group R. An automatic sprinkler system installed in accordance with section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception: Cabin buildings that are located in remote areas without a sufficient municipal water supply for design of a fire sprinkler system and that meet all of the following:

1. Not more than one story.
2. Not more than 750 square feet in floor area.
3. Fuel-fired heating equipment and other fuel-fired appliances are separated from sleeping areas by a one-hour fire-rated assembly.
4. Provided with fire alarm and smoke alarm systems as required by Section 907 for R-1 occupancies.
5. Basements are not allowed.
6. Maintain a fire separation of 20 feet from any other building or structure.
7. Comply with all applicable requirements of this Code.

j. Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system utilizing an emergency voice/alarm communication system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall

be provided with a fire alarm system utilizing an emergency voice/alarm communication system in compliance with Section 907.5.2.2 and installed in accordance with Section 907.6. As a minimum, smoke detection shall be provided in corridors at a maximum spacing of 30 feet on center, and heat or smoke detection shall be provided in any hazardous or nonoccupied areas in all new or existing Group E occupancies.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.

2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

2.1. Interior corridors are protected by smoke detectors with alarm verification.

2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.

2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.

2.4. Off-premises monitoring is provided.

2.5. The capability to activate the evacuation signal from a central point is provided.

2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow, and manual activation is provided from a normally occupied location.

4. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

k. Add the following new section 1003.8:

1003.8 Frost protection. Exterior landings at doors shall be provided with frost protection.

l. Add the following new section 1028.6:

1028.6 Exit discharge pathways. Exit discharge pathways shall be paved from all required exits of a building to a public way or parking lot.

m. Delete section 1029.1.1 and insert in lieu thereof the following new section:

1029.1.1 Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with ICC-300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2012 edition, with the following amendments to ICC-300:

(1) Delete section 105.2 and insert in lieu thereof the following new section:

105.2 Yearly inspection required. The owner shall cause all bleachers and folding and telescopic seating installed on or after December 1, 2011, to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

(2) Delete section 501.2 and insert in lieu thereof the following new section:

501.2 Inspections. All tiered seating that was installed prior to December 1, 2011, shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and

standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

n. Delete section 1103.7.1 and insert in lieu thereof the following new section:

1103.7.1 Existing Group E occupancies shall be provided with a fire alarm system utilizing an emergency voice/alarm communication system in compliance with Section 907.5.2.2 and installed in accordance with Section 907.6. As a minimum, smoke detection shall be provided in corridors at a maximum spacing of 30 feet on center, and heat or smoke detection shall be provided in any hazardous or nonoccupied areas.

Exceptions:

1. A building with a maximum area of 1,000 square feet that contains a single classroom and is located no closer than 50 feet from another building.
2. Group E occupancy with an occupant load of less than 50.
3. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that the activation of the fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

o. Delete section 1103.8 and insert in lieu thereof the following new section:

1103.8 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 1103.8.1 through 1103.8.4.

p. Add the following new section 1103.8.4:

1103.8.4 Smoke alarm service life. Single-station battery-operated smoke alarms shall be replaced in accordance with the manufacturer's instructions.

q. Amend any reference to any section within chapter 23 to read as a reference to "Chapter 23."

r. Delete chapter 23 and insert in lieu thereof the following new chapter:

CHAPTER 23

MOTOR FUEL-DISPENSING FACILITIES AND REPAIR GARAGES

SECTION 2301

GENERAL

2301.1 Motor fuel-dispensing facilities and repair garages shall comply with the applicable provisions of 661—Chapter 221.

s. Amend any reference to any section within chapter 57 to read as a reference to "Chapter 57."

t. Delete chapter 57 and insert in lieu thereof the following new chapter:

CHAPTER 57

FLAMMABLE AND COMBUSTIBLE LIQUIDS

SECTION 5701

GENERAL

5701.1 Transportation, storage, handling, and use of flammable and combustible liquids shall comply with the applicable provisions of 661—Chapter 221.

u. Amend any reference to any section within chapter 61 to read as a reference to "Chapter 61."

v. Delete chapter 61 and insert in lieu thereof the following new chapter:

CHAPTER 61

LIQUEFIED PETROLEUM GASES

SECTION 6101

GENERAL

6101.1 Transportation, storage, handling, and use of liquefied petroleum gases shall comply with the applicable provisions of 661—Chapter 226.

w. Any reference to NFPA 10 is amended to read as follows:

NFPA 10 with the following amendment:

Delete sections 7.1.2.1, 7.1.2.2, and 7.1.2.3 and insert in lieu thereof the following new sections:

7.1.2.1 A trained person who has undergone the instructions necessary to reliably perform maintenance and has the manufacturer's service manual shall service the fire extinguishers not more than one year apart, as outlined in Section 7.3.

7.1.2.2* Maintenance, servicing, and recharging shall be performed by trained persons who have available the appropriate servicing manual(s), the proper types of tools, recharge materials, lubricants, and manufacturer's recommended replacement parts or parts specifically listed for use in the fire extinguisher.

NOTE: Requirements in NFPA 10 for certification of personnel who maintain portable fire extinguishers are removed. These personnel must still be trained and have available service manuals.

x. Adopt Appendices B, C, and D.

y. Amend references in chapter 80 as follows:

(1) Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

(2) Delete all references to the "International Fuel Gas Code" and insert in lieu thereof "rule 661—301.9(103A)."

(3) Delete all references to the "International Mechanical Code" and insert in lieu thereof "state mechanical code."

(4) Delete all references to the "International Building Code" and insert in lieu thereof "rule 661—301.3(103A)."

(5) Delete all references to the "International Residential Code" and insert in lieu thereof "rule 661—301.8(103A)."

201.2(2) The following chapters and sections of the International Building Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, as amended by rule 661—301.3(103A).

a. Chapter 2.

b. Chapter 3.

c. Chapter 4.

d. Chapter 5.

e. Chapter 6.

f. Chapter 7.

g. Sections 804 and 805.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10; **ARC 9769B**, IAB 10/5/11, effective 12/1/11; **ARC 2494C**, IAB 4/13/16, effective 5/18/16]

661—201.3(100) Electrical installations. The provisions of the state electrical code, as adopted and amended in 661—Chapter 504, are hereby adopted by reference as the requirements for electrical installations.

This rule is intended to implement Iowa Code chapter 100.

[**ARC 9827B**, IAB 11/2/11, effective 1/1/12; **ARC 2494C**, IAB 4/13/16, effective 5/18/16]

661—201.4(100) Existing buildings or structures. Additions or alterations to any building or structure shall comply with the requirements of this chapter for new construction. Additions or alterations shall not be made to an existing building or structure that will cause the existing building or structure to be in violation of any provisions of 661—Chapter 201. An existing building plus additions shall comply with the height and area provisions of Chapter 5 of the International Building Code, 2015 edition. Portions of the structure not altered and not affected by the alteration are not required to comply with the requirements established in 661—Chapter 201 for a new structure.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10; **ARC 2494C**, IAB 4/13/16, effective 5/18/16]

661—201.5(100) Recognition of local fire ordinances and enforcement. With the exception of a health care facility subject to the requirements of 661—Chapter 205, a building, structure, or facility shall be deemed to be in compliance with the requirements established in rules of the fire marshal if all of the following conditions are met:

1. The building, structure, or facility is in a local jurisdiction which has adopted a local fire ordinance which adopts by reference any edition of the International Fire Code, published by the International Code Council, 1500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001; any edition of NFPA 1, Uniform Fire Code, published by the National Fire Protection Association; or the Uniform Fire Code, 1997 edition, published by the Western Fire Chiefs Association.

2. The local fire ordinance is enforced through a process of review and approval of construction plans for compliance with the local fire ordinance and a process of regular inspections for compliance with the local fire ordinance.

3. The building, structure, or facility is subject to regular fire safety inspections.

4. The local jurisdiction has verified, during its most recent inspection, including any follow-up inspections, that the building, structure, or facility is in compliance with the local fire ordinance.

Notwithstanding any conflicting provisions contained in any code adopted by reference in this chapter or by any local fire ordinance, compliance with the provisions of 661—Chapter 221 is required at any location or facility in which flammable or combustible liquids are stored, handled, or used, other than incidental use.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10; **ARC 2494C**, IAB 4/13/16, effective 5/18/16]

These rules are intended to implement Iowa Code chapter 100.

[Filed 11/2/06, Notice 9/13/06—published 11/22/06, effective 1/1/07]
[Filed 10/29/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]
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[Filed ARC 9769B (Notice ARC 9561B, IAB 6/15/11), IAB 10/5/11, effective 12/1/11]
[Filed ARC 9827B (Notice ARC 9628B, IAB 7/27/11), IAB 11/2/11, effective 1/1/12]
[Filed ARC 2494C (Notice ARC 2266C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]

CHAPTER 202
REQUIREMENTS FOR SPECIFIC OCCUPANCIES

661—202.1(100) Scope. The provisions of this chapter apply solely to buildings, structures, and facilities currently being used and those being proposed to be used in the specific ways described in this chapter. All other buildings, structures, and facilities in which people congregate are subject to the provisions of 661—Chapter 201 or 661—Chapter 205.

This rule is intended to implement Iowa Code chapter 100.

[**ARC 2494C**, IAB 4/13/16, effective 5/18/16]

661—202.2(237) Facilities in which foster care is provided by agencies to fewer than six children. Rescinded **ARC 2494C**, IAB 4/13/16, effective 5/18/16.

661—202.3(137C) Bed and breakfast inns. Rescinded **ARC 2494C**, IAB 4/13/16, effective 5/18/16.

661—202.4(100) Existing jails and correctional facilities. Rescinded IAB 11/18/09, effective 1/1/10.

661—202.5(100,135C) General requirements for small group homes (specialized licensed facilities) licensed pursuant to Iowa Code section 135C.2 and for facilities in which foster care is provided by agencies to fewer than six children pursuant to Iowa Code chapter 237.

202.5(1) *Scope.* This rule applies to specialized facilities licensed under the provisions of Iowa Code section 135C.2 which have three to five beds and serve persons with intellectual disabilities, chronic mental illness, developmental disabilities, or brain injuries. This rule shall also apply to facilities in which foster care is provided by agencies to fewer than six children pursuant to Iowa Code chapter 237.

202.5(2) *Exits.*

a. There shall be a minimum of two approved exits from the main level of the home and from each level with resident sleeping rooms.

b. Interior and exterior stairways shall have a minimum clear width of not less than 30 inches.

202.5(3) *Windows.* Every resident sleeping room shall have an outside window or outside door arranged and located to permit the venting of products of combustion and access to fresh air in the event of an emergency.

a. In new construction, windows shall have a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, and minimum net clear openable width of 20 inches, and the finished sill height shall be not more than 44 inches above the floor.

b. In existing construction, the finished sill height shall be not more than 44 inches above the floor or may be accessible from a platform not more than 44 inches below the window sill.

202.5(4) *Interior finish.* Interior finish in an exit shall be Class A, B or C.

202.5(5) *Doors.* Doors to resident sleeping rooms shall be a minimum of 1⅜-inch solid core wood or equivalent.

202.5(6) *Vertical separations.* Basement stairs must be enclosed with one-hour rated partitions and 1¾-inch solid core wood doors equipped with self-closers. These doors must be kept closed unless held open by an approved electromagnetic holder, actuated by an approved smoke detection device located at the top of the stairwell and interconnected with the alarm system.

202.5(7) *Fire detection, fire alarms and sprinklers.*

a. The home shall have smoke detection installed on each occupied floor, including basements, in accordance with NFPA 72, 1999 edition, Chapter 11. Smoke detectors shall be interconnected so that activation of any detector will sound an audible alarm throughout. The system shall be tested by a competent person at least semiannually with date of test and name noted.

b. Homes in which exiting is restricted by special door-locking arrangements that prevent residents from free egress shall be equipped with sprinkler systems meeting the requirements of National Fire Protection Association Standard Number 13D, 1996 edition.

202.5(8) *Fire extinguishers.*

a. Approved fire extinguishers shall be provided on each floor, so located that a person will not have to travel more than 75 feet from any point to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, each kitchen or basement storage room.

b. Type and number of portable fire extinguishers shall be determined by the fire marshal.

202.5(9) *Mechanical, electrical and building service equipment.*

a. Air conditioning, ventilating, heating, cooking and other service equipment shall be in accordance with state regulations governing the same, or nationally recognized standards such as National Fire Protection Association standards governing the type of equipment, and shall be installed in accordance with the manufacturer's specifications. All hazardous areas normally found in one- and two-family dwellings, such as laundry, kitchen, heating units and closets, need not be separated with walls if all equipment is installed in accordance with the manufacturer's listed instructions.

b. Portable comfort heating devices are prohibited.

202.5(10) *Attendants; evacuation plan.*

a. Every home shall have at least one staff person on the premises at all times while residents are present. This staff person shall be at least 18 years of age and capable of performing the required duties of evacuation. No person other than management personnel or a person under management control shall be considered an attendant.

b. Every facility shall formulate a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed with respect to their duties under the plan. The plan shall be posted where all employees may readily study it. Fire drills shall be held at least once a month. Records must be kept available for inspection.

202.5(11) *Smoking.*

a. There shall be no smoking in resident sleeping areas, and smoking and no smoking policies shall be strictly enforced.

b. Ashtrays shall be constructed of noncombustible material with self-closing tops and shall be provided in all areas where smoking is permitted.

202.5(12) *Exit illumination.* Approved rechargeable battery-powered emergency lighting shall be installed to provide automatic exit illumination in the event of failure of the normal lighting system.

202.5(13) *Occupancy restrictions.*

a. Occupancies not under the control of, or not necessary to, the administration of residential care facilities are prohibited therein with the exception of the residence of the owner or manager.

b. Nonambulatory residents shall be housed only on accessible floors which have direct access to grade where the use of stairs or elevators is not required.

202.5(14) *Maintenance.*

a. All fire and life safety equipment or devices shall be regularly and properly maintained in an operable condition at all times in accordance with nationally recognized standards. Such equipment and devices include fire extinguishing equipment, alarm systems, doors and their appurtenances, cords and switches, heating and ventilating equipment, sprinkler systems and exit facilities.

b. Storerooms shall be maintained in a neat and proper manner at all times.

c. Excessive storage of combustible materials such as papers, cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times.

This rule is intended to implement Iowa Code section 135C.2, subsection 5, paragraph *"b"* and Iowa Code section 237.3, subsection 3.

[**ARC 8307B**, IAB 11/18/09, effective 1/1/10; **ARC 2494C**, IAB 4/13/16, effective 5/18/16]

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[Filed ARC 2494C (Notice ARC 2266C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]

CHAPTER 210
SMOKE DETECTORS

661—210.1(100) Definitions. The following definitions apply to rules 661—210.1(100) through 661—210.5(100):

"Approved" means that the equipment has been approved or listed for a specific use by an independent testing laboratory or organization of national reputation.

"Commercial grade smoke detection system" means a system of smoke detectors in which each detector is listed to Underwriters Laboratory Standard 268, Smoke Detectors for Fire Alarm Systems, or to another standard approved by the state fire marshal. Sensors in a commercial grade smoke detection system shall be located so as to provide coverage at least equivalent to that which would be provided by smoke detectors installed as required in subrule 210.3(11).

"Dual sensor smoke detector" means a smoke detector which contains both an ionization sensor and a photoelectric sensor and which is designed to detect and trigger an alarm in response to smoke detected through either sensing device, or a smoke detector which has at least two sensors and which is listed to Underwriters Laboratory Standard 217, Single and Multiple Station Smoke Alarms, or to another standard approved by the state fire marshal.
[**ARC 8550B**, IAB 2/24/10, effective 4/1/10]

661—210.2(100) Scope. The provisions of this chapter apply to single-family and two-family residences and to townhouses and to all other residential occupancies unless otherwise provided herein or by another provision of law. The provisions of this chapter do not apply to nonresidential occupancies.
[**ARC 8550B**, IAB 2/24/10, effective 4/1/10]

661—210.3(100) General requirements.

210.3(1) Approved single-station smoke alarms shall be acceptable in all areas covered by this chapter, unless other fire warning equipment or materials are required by any provision of 661—Chapter 201, 202, or 205 or if a commercial grade smoke detection system has been installed. Any single-station smoke alarm installed on or after April 1, 2010, in compliance with this subrule, including a replacement of an existing alarm, shall be a dual sensor smoke alarm. If sufficient dual sensor smoke alarms have been installed to comply with the requirements of this chapter, additional smoke alarms which may be other than dual sensor alarms may be installed.

210.3(2) Any installation of wiring and equipment shall comply with NFPA 70, National Electrical Code, 2014 edition, and requirements established by the manufacturer of the equipment serviced by the wiring.

210.3(3) All devices, combinations of devices, and equipment to be installed in conformity with this chapter shall be approved and used for the purposes for which they are intended. Any smoke alarm installed on or after April 1, 2010, in compliance with this chapter, including a replacement of an existing alarm, shall be a dual sensor smoke alarm. If sufficient dual sensor smoke alarms have been installed to comply with the requirements of this chapter, additional smoke alarms which may be other than dual sensor alarms may be installed.

210.3(4) A combination system, such as a household fire warning system whose components may be used in whole or in part, in common with a nonfire emergency signaling system, such as a burglar alarm system or an intercom system, shall not be permitted or approved, except for one- or two-family dwellings.

210.3(5) All power supplies shall be sufficient to operate the smoke detector alarm for at least four continuous minutes.

210.3(6) Single-station battery-operated or battery backup smoke alarms shall be replaced in accordance with the manufacturer's instructions.

210.3(7) Power source.

a. In new buildings and additions constructed after July 1, 1991, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than that required for

overcurrent protection. Smoke detectors may be solely battery operated when installed in existing buildings, or in buildings without commercial power, or in buildings which undergo alterations, repairs or additions subject to subrule 210.3(2).

b. New and replacement smoke detectors installed after May 1, 1993, which receive their primary power from the building wiring shall be equipped with a battery backup.

c. New and replacement smoke alarms installed after July 1, 2016, which receive their primary power from the building wiring where more than one smoke alarm is required to be installed shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms.

210.3(8) The failure of any nonreliable or short-life component which renders the alarm inoperative shall be readily apparent to the occupant of the sleeping unit without the need for a test. Each smoke alarm shall detect abnormal quantities of smoke that may occur and shall properly operate in the normal environmental condition.

210.3(9) Equipment shall be installed in accordance with the manufacturer's recommendations.

210.3(10) Installed fire warning equipment shall be mounted so as to be supported independently of its attachment to wires.

210.3(11) All apparatus shall be restored to normal immediately after each alarm or test.

210.3(12) Smoke alarms shall be located as follows:

a. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

b. In each room used for sleeping purposes.

c. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

[**ARC 7735B**, IAB 5/6/09, effective 4/7/09; **ARC 8151B**, IAB 9/23/09, effective 9/1/09; **ARC 8550B**, IAB 2/24/10, effective 4/1/10; **ARC 2494C**, IAB 4/13/16, effective 5/18/16]

661—210.4(100) Smoke detectors—notice and certification of installation.

210.4(1) *Notice of installation.* An owner of a rental residential building containing two or more units, who is required by law to install smoke detectors, shall notify the local fire department upon installation of required smoke detectors.

210.4(2) *Certification—single-family dwelling units.* A person who files for a homestead tax credit pursuant to Iowa Code chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector(s) installed in accordance with subrule 210.3(6) and paragraph 210.3(11)*"a,"* or that such smoke detector(s) will be installed within 30 days of the date of filing for credit.

210.4(3) *Reports to fire marshal.* Each county or city assessor charged with the responsibility of accepting homestead tax credit applications shall obtain certification of smoke detection on a form acceptable to the state fire marshal, signed by the person making application for credit, and shall file a quarterly report with the fire marshal listing the name and address and stating whether applicant attested to a detector(s) being present at the time of application or that a detector(s) would be installed as required within 30 days.

[**ARC 8550B**, IAB 2/24/10, effective 4/1/10]

661—210.5(100) Smoke detectors—new and existing construction.

210.5(1) *New construction.* All multiple-unit residential buildings and single-family dwellings which are constructed after July 1, 1991, shall include the installation of smoke detectors meeting the requirements of rule 661—210.3(100).

210.5(2) *Existing construction.* All existing single-family units and multiple-unit residential buildings shall be equipped with smoke detectors as required in paragraph 210.3(11)*"a."*

[**ARC 8550B**, IAB 2/24/10, effective 4/1/10]

These rules are intended to implement Iowa Code section 100.18.

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[Filed ARC 2494C (Notice ARC 2266C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]

CHAPTER 300
STATE BUILDING CODE—ADMINISTRATION

[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]

661—300.1(103A) State building code promulgated. Iowa Code section 103A.7 assigns to the building code commissioner authority to promulgate the state building code, with the approval of the building code advisory council, except that adoption of the state historic building code requires the approval of the state historical society board of trustees, rather than the building code advisory council.

The state building code, as authorized by Iowa Code section 103A.7, includes 661—Chapters 16, 300, 301, 302, 303, 310, 315 and 322. The state historic building code is set forth in 661—Chapter 350.
[**ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—300.2(103A) Building code commissioner. The building code commissioner appointed by the commissioner of public safety pursuant to Iowa Code section 103A.4 shall serve as the chief of the building code bureau. The building code commissioner shall adopt, and amend as needed, the state building code, with the approval of the building code advisory council, and the state historic building code, with the approval of the state historical society board. The building code commissioner also shall appoint the board of review from among the council membership. The building code commissioner shall consider any request for the use of alternate materials or methods of construction submitted to the building code bureau pursuant to Iowa Code section 103A.13, and shall either disapprove each such request or shall recommend approval of the request to the building code advisory council.

661—300.3(103A) Building code advisory council. The building code advisory council appointed by the governor pursuant to Iowa Code section 103A.14 shall consider amendments to the state building code proposed by the building code commissioner, other than amendments to the state historic building code. The council shall approve or disapprove any changes to the state building code proposed by the building code commissioner. The council shall also consider and approve or disapprove any requests for use of alternate materials or methods of construction, the approval of which has been recommended to the council by the building code commissioner.

661—300.4(103A) Plan reviews.

300.4(1) *Plans and specifications review—approvals.*

a. Submissions to the building code commissioner of architectural technical documents, engineering documents, and plans and specifications are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.

b. "Responsible design professional" means a registered architect or licensed professional engineer who signs the documents submitted.

c. Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the requirements of the applicable provisions of the state building code.

d. In sections 107.1 and 107.2.5 of the International Building Code, 2015 edition, the word "permit" shall be replaced by the words "plan review."

e. Submittals to the commissioner shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.

f. Plans and specifications for projects subject to plan review by the commissioner shall be submitted in a format specified on the plan review submittal form.

g. Architectural technical submissions, engineering documents, and plans and specifications for construction, renovation, or remodeling of all state-owned buildings or facilities, including additions to existing buildings, shall be submitted to the commissioner for review and comment. Subsequently, a written response by the design professional indicating corrective measures taken to address the

commissioner's plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

h. Architectural technical submissions, engineering documents, and plans and specifications for the initial construction of any building or facility that will not, when completed, be wholly owned by the state or an agency of the state shall be submitted to the commissioner for review and comment, if the construction is financed in whole or in part with funds appropriated by the state and there is no local building code in effect in the local jurisdiction in which the construction is planned or, if there is such a local building code in effect, it is not enforced through a system which includes both plan reviews and inspections. Subsequently, a written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

i. Architectural technical submissions, engineering documents, and plans and specifications for construction, renovation, or remodeling of all buildings or facilities, including additions to existing buildings, to which the state building code applies, other than those subject to paragraph *"g"* or *"h,"* shall be submitted to the commissioner for review and comment, unless applicability of the state building code is based upon a local ordinance enacted pursuant to Iowa Code section 103A.12. Subsequently, a written response by the design professional indicating corrective measures taken to address the commissioner's plan review comments shall be submitted to and approved by the commissioner prior to the issuance of construction documents for bidding. Bidding may commence on a project after the preliminary meeting provided for in subrule 300.4(3) if all items on the preliminary meeting checklist have been resolved to the satisfaction of the commissioner.

j. If the state building code applies to a construction project based upon a local ordinance adopting the state building code, the submission shall be made to the local jurisdiction, provided that the local jurisdiction has established a building department, unless the local jurisdiction requires submission to the commissioner. Review and approval of such documents by the commissioner shall be at the discretion of the commissioner based upon available resources.

k. No project for which a life cycle cost analysis is required to be completed pursuant to Iowa Code section 470.2 shall be approved for construction prior to receipt by the commissioner of the life cycle cost analysis, final approval of the life cycle cost analysis by the commissioner and the economic development authority pursuant to Iowa Code section 470.7, and the completion of all applicable requirements established in Iowa Code section 470.7.

l. No project for which an energy review is required pursuant to subrule 303.1(3) shall be approved for construction prior to the receipt by the commissioner of the energy review.

NOTE: Compliance with the requirements of paragraphs *"k"* and *"l"* at the earliest practical time is strongly recommended. In no case shall the submission occur later than specified in the applicable statutory provisions and provisions of the state building code.

m. Any submission to the commissioner of architectural technical submissions, engineering documents, or plans and specifications for construction, except for plans to renovate or remodel residential buildings of one or two units, shall include a statement that the construction will comply with all applicable energy conservation requirements.

300.4(2) *Copies and fees.* See 661—Chapters 16 and 322 for fees pertaining to factory-built structures.

a. Codes and standards adopted by reference in the state building code which are published by other organizations, including, but not limited to, the American National Standards Institute, the International Code Council, the International Association of Plumbing and Mechanical Officials, and the National Fire Protection Association, may be purchased from the publishing organization. A copy of each code or standard adopted by reference in the state building code has been deposited in the Iowa state law library.

b. The fees for plan reviews completed by the building code bureau shall be calculated as follows:

Estimated Construction Costs	**Calculation of Plan Review Fee**
Up to and including $1 million	$.58 per thousand dollars or fraction thereof (minimum fee $200)
More than $1 million	$580 for the first $1 million plus $.32 for each additional thousand dollars or fraction thereof
The plan review fees for fire suppression systems and fire alarm systems are separate fees and shall be calculated as follows:	
Fire Protection System Costs	**Plan Review Fee**
Fire suppression systems whose construction cost for materials and installation is calculated to be up to and including $5,000	$100
Fire suppression systems whose construction cost for materials and installation is calculated to be more than $5,000 and up to and including $20,000	$200
Fire suppression systems whose construction cost for materials and installation is estimated to be more than $20,000	$400
Fire alarm systems whose construction cost for materials and installation is calculated to be up to and including $5,000	$100
Fire alarm systems whose construction cost for materials and installation is calculated to be more than $5,000 and up to and including $20,000	$200
Fire alarm systems whose construction cost for materials and installation is estimated to be more than $20,000	$400

Payment of the assigned fee shall accompany each plan when submitted for review. Payment shall be made by money order, check or draft made payable to the Treasurer, State of Iowa.

NOTE: Plan review fees for assisted living projects are contained in Iowa Code section 231C.18(2)*"c."* Elder group home plan review fees are contained in Iowa Code section 231B.17. Adult day services plan review fees are contained in Iowa Code section 231D.4.

c. A person who has submitted a plan for review for which a fee has been assessed pursuant to paragraph *"b"* is eligible to receive a refund of the fee if the plan has not been approved or rejected within 60 calendar days of its receipt by the building code bureau. A person who believes that a refund is due shall notify the building code commissioner who shall provide a form to the person who submitted the plan for review to request a refund. If the request for refund is approved, the building code commissioner shall cause a check for the amount of the refund to be issued to the individual or organization that originally paid the fee. If the original submission of the plan is incomplete, the fee shall be refunded only if the plan has not been approved or rejected within 60 days of a full and complete submission of the plan. "Approved or rejected within 60 days" means that a letter approving or rejecting the plan has been presented or mailed to the submitter within 60 days of the date of receipt by the building code bureau, within the meaning of "time" as defined in Iowa Code section 4.1.

300.4(3) *Preliminary meeting.* The responsible design professional for a project shall schedule a preliminary meeting with the building code bureau to discuss code compliance issues early in the design development phase. The responsible design professional shall contact the bureau to schedule the preliminary meeting. There is no separate fee for a preliminary meeting. If the responsible design professional plans to request approval to bid the project as part of the preliminary meeting, the responsible design professional shall request a copy of the document "Preliminary Meeting Checklist" at the time the meeting is scheduled and shall be prepared to address all applicable issues identified on the checklist at the preliminary meeting. Approval to bid the project shall not be given unless all applicable issues identified on the checklist have been addressed to the satisfaction of the commissioner.

300.4(4) *Requests for staged approvals.*

a. Requests for approval to begin foundation work shall be submitted to the building code bureau in writing and may be transmitted by mail, E-mail or fax or in person. Foundation approval may be granted by the bureau in writing, following a preliminary meeting, if the construction plans and specifications are found to be in compliance with the requisite code provisions.

b. Requests for approval to continue construction beyond the foundation, up to and including the shell of the building, shall be submitted to the bureau in writing and may be transmitted by mail, E-mail or fax or in person. These requests will be evaluated on a case-by-case basis, and approval or denial of the requests will be transmitted to the submitter in a written form.

300.4(5) *Fast-track projects.* While fast-track projects are not encouraged, fast-track projects may be considered by the commissioner on a case-by-case basis. If a fast-track project is initially approved, a written plan of submittal, review and approval will be developed for each project. All projects approved for fast-track review must be submitted in an electronic format that is acceptable to the commissioner.

NOTE: Fast-track projects are not encouraged and will be approved only on the basis of good cause shown.

[**ARC 8305B**, IAB 11/18/09, effective 1/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—300.5(103A) Inspections.

300.5(1) Any building or facility for which construction is subject to a plan review by the commissioner, except construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents, shall be subject to inspection by the commissioner or staff of the bureau or division at the direction of the commissioner or by a third party with whom the commissioner contracts to conduct inspections of buildings and facilities subject to the state building code.

EXCEPTION: Construction which is limited to building renovations or repairs shall not be subject to inspection by the commissioner.

300.5(2) Any construction involving any building or facility owned by the board of regents or by an institution subject to the authority of the board of regents shall be subject to inspection by the commissioner or staff of the bureau or division at the direction of the commissioner.

EXCEPTION: Construction which is limited to building renovations or repairs shall not be subject to inspection by the commissioner.

300.5(3) Buildings subject to inspection by the state building code commissioner, except construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents, shall pay an inspection fee based upon the construction cost of the project. The inspection fee shall be calculated as follows:

Construction Cost	Base Inspection Fee
Up to $100,000	$598
$100,001 to $1,000,000	$645
$1,000,001 to $10,000,000	$722
$10,000,001 and above	$783
Follow-up inspection	$214

The base inspection fee shall cover three inspections—a foundation, rough-in and final. The base inspection fee shall be due and payable at the time completed construction documents are submitted for review. The plan review will not be conducted until the proper base inspection fee is paid. Checks should be made payable to the Treasurer, State of Iowa, and delivered to the bureau office. This fee is separate and distinct from the plan review fee established in subrule 300.4(2).

Additional inspections may occur for any of the following reasons:

a. During one of the three base inspections, code violations are identified that require that a follow-up inspection be conducted to verify that the violations have been corrected.

b. Upon arrival, the inspector finds that the project is not ready for the type of inspection requested.

c. By special request of the project designer, contractor or owner.

d. Upon order of the building code commissioner (no additional charge).

The fee for each additional inspection shall be calculated individually as follows:

One hour on site = $206

One to two hours on site = $240

Two to three hours on site = $273

Three to four hours on site = $307

Four to five hours on site = $341

Five to six hours on site = $374

Additional inspection fees will be billed to the responsible architect or building contractor on a monthly basis. The building may receive only temporary approval for occupancy if unpaid inspection fees remain at the time of final inspection.

Inspection fees and standard operating procedures for construction involving any building or facility owned by the board of regents or by any institution subject to the authority of the board of regents shall be established through a written agreement between the commissioner and the board of regents.

300.5(4) Any person who performs a building code inspection on behalf of the building code commissioner shall have and maintain one of the following: (1) current certification as a commercial building inspector by the International Code Council, or (2) other equivalent certification approved by the building code commissioner. An employee of the department who performs an inspection on behalf of the building code commissioner shall, in addition, meet any requirements for the job class in which the employee is classified as established by the department of administrative services, pursuant to Iowa Code chapter 8A, subchapter IV, part 2.

EXCEPTION: An employee of the department who performs inspections on behalf of the building code commissioner may perform such inspections for no more than six months prior to obtaining the required certification.

[**ARC 8305B**, IAB 11/18/09, effective 1/1/10]

661—300.6(103A) Local code enforcement. Provisions of the state building code applicable statewide or applicable in a local jurisdiction which has adopted the state building code by local ordinance may be enforced by the local jurisdiction.

Any local jurisdiction which adopts the state building code by local ordinance may further adopt provisions for the administration and enforcement of the building code by the local jurisdiction. These provisions may include administrative provisions contained in the codes adopted by reference as part of the state building code and may include other provisions at the discretion of the local jurisdiction.

300.6(1) *Creation of department.* There may be established within the governmental subdivision a "building department" which shall be under the jurisdiction of the building official designated by the appointing authority. Within the state building code, including publications adopted by reference within the state building code, the terms "administrative authority," "authority having jurisdiction," and "authorized representative" shall mean the building official.

300.6(2) *Powers and duties of building official.* The building official in those governmental subdivisions establishing a building department shall enforce all the provisions of any applicable building code as prescribed by local law or ordinance and as outlined by Iowa Code section 103A.19.

300.6(3) *Permits only.* Any governmental subdivision that has not established a building department but requires a permit to construct or an occupancy permit or both shall be known as the "issuing authority."

300.6(4) *Statement of compliance with energy conservation requirements.* Any application for a building permit, except for applications to renovate or remodel residential buildings of one or two units, shall include a statement that the construction will comply with all applicable energy conservation requirements.

These rules are intended to implement Iowa Code chapter 103A.

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CHAPTER 301
STATE BUILDING CODE—GENERAL PROVISIONS

[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]

661—301.1(103A) Scope and applicability. The provisions of this chapter apply generally to:

1. Buildings and facilities owned by the state of Iowa;
2. The initial construction of any building or facility not wholly owned by the state of Iowa or any department or agency of the state of Iowa which is financed in whole or in part with funds appropriated by the state, if there is no local building code in effect in the jurisdiction in which the construction is located or if there is a local building code in effect in the jurisdiction, and the local building code is not enforced through a system of plan reviews and inspections;
3. Buildings and facilities subject to the state building code, pursuant to a provision of state or federal law other than Iowa Code chapter 103A; and
4. Buildings and facilities in local jurisdictions which have adopted the state building code by local ordinance in accordance with the provisions of Iowa Code section 103A.12.

661—301.2(103A) Definitions. The following definitions apply to 661—Chapters 300, 301, 302, 303, 310, 315, 322 and 350.

"Appropriated by the state of Iowa" means funds which are included in a bill enacted by the Iowa general assembly and signed by the governor or which are appropriated in a provision of the Iowa Code.

"Board of appeals" means the local board of appeals as created by local ordinance.

"Board of review" or *"board"* means the state building code board of review created by Iowa Code section 103A.15. The three members of the board of review are appointed by the building code commissioner from among the membership of the building code advisory council.

"Building" means a combination of materials, whether portable or fixed, to form a structure affording facilities or shelter for persons, animals or property. The word "building" includes any part of a building unless the context clearly requires a different meaning. This definition does not apply to 661—Chapter 302.

"Building code advisory council" or *"council"* means the seven-member council appointed by the governor, pursuant to Iowa Code section 103A.14, to advise and confer with the commissioner on matters relating to the state building code and to approve provisions of the state building code adopted by the commissioner.

"Building component" means any part, subsystem, subassembly, or other system designed for use in, or as a part of, a structure, including but not limited to: structural, electrical, mechanical, fire protection, or plumbing systems, and including such variations thereof as are specifically permitted by regulation, and which variations are submitted as part of the building system or amendment thereof.

"Building department" means an agency of any governmental subdivision charged with the administration, supervision, or enforcement of building regulations, prescribed or required by state or local building regulations.

"Building system" means plans, specifications and documentation for a system of manufactured factory-built structures or buildings or for a type or a system of building components, including but not limited to: structural, electrical, mechanical, fire protection, or plumbing systems, and including such variations thereof as are specifically permitted by regulation, and which variations are submitted as part of the building system or amendment thereof.

"Bureau" means the building code bureau of the fire marshal division of the department of public safety.

"Commissioner" means the state building code commissioner appointed by the commissioner of public safety pursuant to Iowa Code section 103A.4.

"Construction" means the construction, erection, reconstruction, alteration, conversion, repair, equipping of buildings, structures or facilities, and requirements or standards relating to or affecting materials used in connection therewith, including provisions for safety and sanitary conditions.

"Construction cost" means the total cost of the work to the owner of all elements of the project designed or specified by the design professional including the cost at current market rates of labor and materials furnished by the owner and equipment designed, specified or specifically provided by the design professional. Construction costs shall include the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for each construction manager's or contractor's overhead and profit.

"Division" means the fire marshal division of the department of public safety.

"Enforcement authority" means any state agency or political subdivision of the state that has the authority to enforce the state building code.

"Equipment" means plumbing, heating, electrical, ventilating, conditioning, refrigeration equipment, and other mechanical facilities or installations.

"Governmental subdivision" means any state, city, town, county or combination thereof.

"Label" means an approved device affixed to a factory- built structure or building, or building component, by an approved agency, evidencing code compliance.

"Listing agency" means an agency approved by the commissioner which is in the business of listing or labeling and which maintains a periodic inspection program on current production of listed models, and which makes available timely reports of such listing including specific information verifying that the product has been tested to approved standards and found acceptable for use in a specified manner.

"Responsible design professional" means a registered architect or licensed professional engineer who stamps and signs the documents submitted, pursuant to Iowa Code chapters 542B and 544A.

"State fire code" means administrative rules adopted by the state fire marshal, pursuant to Iowa Code section 100.1, subsection 5.

"State mechanical code" means the state mechanical code adopted by the state plumbing and mechanical systems board, pursuant to Iowa Code chapter 105.

"State plumbing code" means the state plumbing code adopted by the state plumbing and mechanical systems board, pursuant to Iowa Code chapter 105.

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner except transmission and distribution equipment of public utilities. "Structure" includes any part of a structure unless the context clearly requires a different meaning.

[**ARC 8305B**, IAB 11/18/09, effective 1/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—301.3(103A) General provisions. The provisions of the International Building Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, are hereby adopted by reference as the general requirements for building construction, with the following amendments:

301.3(1) Delete section 101.1.

301.3(2) Delete section 101.2 and insert in lieu thereof the following new section:

101.2 Scope. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code, as amended by rule 661—301.8(103A).

301.3(3) Delete sections 101.4.1 through 101.4.6.

301.3(4) Delete section 102.6 and insert in lieu thereof the following new section:

102.6 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

301.3(5) Delete sections 103, 104, 105 and sections therein.

301.3(6) Delete section 106.2.

301.3(7) Delete section 107.1 and insert in lieu thereof the following new section:

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, a geotechnical report and other data shall be submitted in one or more sets with each plan review application. The construction documents shall be prepared by a responsible design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the commissioner is authorized to require additional construction documents to be prepared by a responsible design professional.

Exception: The commissioner is authorized to waive the submission of construction documents and other data not required to be prepared by a responsible design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

301.3(8) Delete sections 107.3, 107.4, and 107.5 and sections therein.

301.3(9) Delete sections 109, 110, 111, 112, 113, 114, 115, and 116 and sections therein.

301.3(10) Add the following to section 202, Definitions:

"Cabin Building." A residential building or structure the use of which is transient in nature and which is used for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code.

301.3(11) Add the following to section 310.2:

Cabin buildings.

301.3(12) Add the following new section 408.9.1:

408.9.1 Windowed Buildings. Plans and specifications for windowed buildings or portions of windowed buildings shall include a rational analysis demonstrating a tenable environment for exiting from the smoke compartment in the area of fire origin.

301.3(13) Delete section 423 in its entirety and insert in lieu thereof the following new section:

423 Storm Shelters.

423.1 General. Any storm shelter or weather safe room as defined by rule 661—315.2(103A) shall be designed and constructed in accordance with ICC 500-2014.

423.1.1 Scope. In accordance with 661—Chapter 315, this section applies to storm shelters and weather safe rooms constructed on or after January 1, 2011. This section does not require the construction of a weather safe room or rooms for any construction project but does establish standards for design and construction of storm shelters and weather safe rooms when their construction is required by another statute, federal statute or regulation, or is incorporated voluntarily in a construction project.

301.3(14) Delete section 903.2.8, except for subsections 903.2.8.1 through 903.2.8.4, and insert in lieu thereof the following new section:

903.2.8 Group R. An automatic sprinkler system installed in accordance with section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exception: Cabin buildings that are located in remote areas without a sufficient municipal water supply for design of a fire sprinkler system and that meet all of the following:

1. Not more than one story.
2. Not more than 750 square feet in floor area.
3. Fuel-fired heating equipment and other fuel-fired appliances are separated from sleeping areas by a one-hour fire-rated assembly.
4. Provided with fire alarm and smoke alarm systems as required by section 907 for R-1 occupancies.
5. Basements are not allowed.
6. Maintain a fire separation of 20 feet from any other building or structure.
7. Comply with all applicable requirements of the state building code.

301.3(15) Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system utilizing an emergency voice/alarm communication system shall be installed throughout

the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system utilizing an emergency voice/alarm communication system in compliance with section 907.5.2.2 and installed in accordance with section 907.6. As a minimum, smoke detection shall be provided in corridors at a maximum spacing of 30 feet on center, and heat or smoke detection shall be provided in any hazardous or nonoccupied areas.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.

2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

2.1. Interior corridors are protected by smoke detectors with alarm verification.

2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.

2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.

2.4. Off-premises monitoring is provided.

2.5. The capability to activate the evacuation signal from a central point is provided.

2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow, and manual activation is provided from a normally occupied location.

4. Emergency voice/alarm communication systems meeting the requirements of section 907.5.2.2 and installed in accordance with section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the fire alarm system initiates an approved occupant notification signal in accordance with section 907.5.

301.3(16) Add the following new section 1003.8:

1003.8 Frost Protection. Exterior landings at doors shall be provided with frost protection.

301.3(17) Add the following new section 1027.5.1:

1027.5.1 Exit Discharge Pathways. Exit discharge pathways shall be paved from all exits of the building to the public way.

301.3(18) Delete section 1029.1.1 and insert in lieu thereof the following new section:

1029.1.1 Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with ICC-300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2012 edition, with the following amendments to ICC-300:

a. Delete section 105.2 and insert in lieu thereof the following new section:

105.2 Yearly inspection required. The owner shall cause all bleachers and folding and telescopic seating installed on or after December 1, 2011, to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

b. Delete section 501.2 and insert in lieu thereof the following new section:

501.2 Inspections. All tiered seating that was installed prior to December 1, 2011, shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of

the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

301.3(19) Add the following new section 1100:

1100. Any building or facility which is in compliance with the applicable requirements of 661—Chapter 302 shall be deemed to be in compliance with any applicable requirements contained in the International Building Code concerning accessibility for persons with disabilities.

301.3(20) Delete chapter 29.

301.3(21) Amend section 3001.2 by adding the following new unnumbered paragraph after the introductory paragraph:

Notwithstanding the references in Chapter 35 to editions of national standards adopted in this section, any editions of these standards adopted by the elevator safety board in 875—Chapter 72 are hereby adopted by reference. If a standard is adopted by reference in this section and there is no adoption by reference of the same standard in 875—Chapter 72, the adoption by reference in this section is of the edition identified in Chapter 35.

301.3(22) Delete appendices A, B, D, E, F, G, H, I, J, K, L and M.

301.3(23) Retain Appendix C, Group U Agricultural Buildings.

301.3(24) Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

301.3(25) Delete all references to the "International Fuel Gas Code" and insert in lieu thereof "rule 661—301.9(103A)."

301.3(26) Delete all references to the "International Mechanical Code" and insert in lieu thereof "state mechanical code."

301.3(27) Delete all references to the "International Residential Code" and insert in lieu thereof "rule 661—301.8(103A)."

301.3(28) Delete all references to the "International Energy Conservation Code" and insert in lieu thereof "661—Chapter 303."

301.3(29) *Hospitals and health care facilities.*

a. A hospital, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the hospital is in compliance with the provisions of rule 661—205.5(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the hospital shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

b. A nursing facility or hospice, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the nursing facility or hospice is in compliance with the provisions of rule 661—205.10(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the nursing facility or hospice shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

c. An intermediate care facility for the mentally retarded, as defined in rule 661—205.1(100), or intermediate care facility for persons with mental illness that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the intermediate care facility is in compliance with the provisions of rule 661—205.15(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the intermediate care facility shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

d. An ambulatory health care facility, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the ambulatory health care facility is in compliance with the provisions of rule 661—205.20(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the ambulatory health care facility shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

e. A religious nonmedical health care institution that is required to meet the provisions of the state building code shall be deemed to be in compliance with the provisions of the state building code if the institution is in compliance with the provisions of rule 661—205.25(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the religious nonmedical health care institution shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.
[**ARC 8305B**, IAB 11/18/09, effective 1/1/10; **ARC 9770B**, IAB 10/5/11, effective 12/1/11; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—301.4(103A) Mechanical requirements. The provisions of the state mechanical code, 641—Chapter 61, as adopted and amended by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105 are hereby adopted by reference as the requirements for mechanical installations.
[**ARC 8305B**, IAB 11/18/09, effective 1/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—301.5(103A) Electrical requirements. The provisions of the state electrical code, as adopted and amended in 661—Chapter 504, are hereby adopted by reference as the requirements for electrical installations.

This rule is intended to implement Iowa Code chapter 103A.
[**ARC 9826B**, IAB 11/2/11, effective 1/1/12; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—301.6(103A) Plumbing requirements. Provisions of the state plumbing code, 641—Chapter 25, adopted by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105, apply to plumbing installations in this state.

EXCEPTION: Factory-built structures, as referenced by Iowa Code section 103A.10(3), that contain plumbing installations are allowed to comply with either the state plumbing code or with the International Plumbing Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001. The manufacturer's data plate must indicate which plumbing code was utilized for compliance with this rule, as required by 661—paragraph 16.610(15)*"e."*

Private sewage disposal systems shall comply with 567—Chapter 69.

301.6(1) Rescinded IAB 7/27/11, effective 7/8/11.

301.6(2) Fuel gas piping shall comply with the requirements established in rule 661—301.9(103A).
[**ARC 8305B**, IAB 11/18/09, effective 1/1/10; **ARC 9627B**, IAB 7/27/11, effective 7/8/11; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—301.7(103A) Existing buildings.

301.7(1) *Definition.* "Existing building" means a building erected prior to May 18, 2016.

301.7(2) *Adoption.* The provisions of the International Existing Building Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, are hereby adopted by reference as the requirements for repair, alteration, change of occupancy, addition, and relocation of existing buildings, with the following amendments:

Delete section 101.1.

Delete section 101.4.2 and insert in lieu thereof the following new section:

101.4.2 Buildings Previously Occupied. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

Delete section 101.5.

Delete section 101.6.

Delete section 101.7.

Delete sections 103, 104, and 105 and sections therein.

Delete sections 106.1, 106.3, 106.4, 106.5, and 106.6.

Delete sections 108, 109, 110, 112, 113, 114, 115, 116 and 117 and sections therein.

Delete section 705.

Delete section 906.

Delete section 1012.8.

Delete section 1105.1.

Delete section 1205.15.

Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

Delete all references to the "International Fuel Gas Code" and insert in lieu thereof "rule 661—301.9(103A)."

Delete all references to the "International Mechanical Code" and insert in lieu thereof "state mechanical code."

Delete all references to the "International Building Code" and insert in lieu thereof "rule 661—301.3(103A)."

Delete all references to the "International Residential Code" and insert in lieu thereof "rule 661—301.8(103A)."

Delete all references to the "International Fire Code" and insert in lieu thereof "state fire code."

[**ARC 8305B**, IAB 11/18/09, effective 1/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—301.8(103A) Residential construction requirements. The provisions of the International Residential Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, are hereby adopted by reference as the requirements for construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures, with the following amendments:

Delete section R101.1.

Delete sections R103 to R114 and sections therein.

NOTE: The values for table R301.2(1) shall be determined by the location of the project and referenced footnotes from table R301.2(1).

Insert new Exception 5: "5. Exterior decks, exterior balconies, and exterior porches."

Delete chapter 11 and insert in lieu thereof rule 661—303.2(103A).

Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

Delete all references to the "International Mechanical Code" and insert in lieu thereof "state mechanical code."

Delete all references to the "International Fuel Gas Code" and insert in lieu thereof "rule 661—301.9(103A)."

Delete all references to the "International Building Code" and insert in lieu thereof "rule 661—301.3(103A)."

Delete all references to the "International Fire Code" and insert in lieu thereof "state fire code."

Delete section R310.1 and insert in lieu thereof the following new section:

R310.1 Emergency escape and rescue required. Basements, habitable attics and every sleeping room shall have at least one operable emergency and rescue opening. Such opening shall open directly into a public street, public alley, yard or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided, they shall have a sill height of not more than 44 inches (1118 mm) above an adjacent permanent interior

standing surface. The adjacent permanent interior standing surface shall be no less than 36 inches wide and 18 inches deep and no more than 24 inches high. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

EXCEPTION: Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m^2).

Delete section R313.1.

NOTE: Deletion of section R313.1, which would have required the installation of sprinklers in newly constructed townhouses, is consistent with 2010 Iowa Acts, Senate Joint Resolution 2009.

Delete section R313.2.

NOTE: Deletion of section R313.2, which would have required the installation of sprinklers in newly constructed one- and two-family residences, is consistent with 2010 Iowa Acts, Senate Joint Resolution 2009.

Amend section R322.1.7 by striking the words "Chapter 3 of the International Private Sewage Disposal Code" and inserting in lieu thereof "567 Iowa Administrative Code Chapter 69."

Delete chapter 24 and sections therein and insert in lieu thereof the following new section:

All fuel gas piping installations shall comply with rule 661—301.9(103A).

Delete chapters 25 to 33 and sections therein, except for section P2904, and insert in lieu thereof the following new section:

All plumbing installations shall comply with the state plumbing code as adopted by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105.

EXCEPTION: Factory-built structures, as referenced by Iowa Code section 103A.10(3), that contain plumbing installations are allowed to comply with either the state plumbing code or with the International Plumbing Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001. The manufacturer's data plate must indicate which plumbing code was utilized for compliance with this rule, as required by 661—paragraph 16.610(15)*"e."*

Delete chapters 34 to 43 and sections therein and insert in lieu thereof the following new section:

The provisions of the state electrical code, as adopted and amended in 661—Chapter 504, are hereby adopted by reference as the requirements for electrical installations.

Delete appendices A through U of the IRC.

[**ARC 8305B**, IAB 11/18/09, effective 1/1/10 (See Delay note at end of chapter); **ARC 8771B**, IAB 5/19/10, effective 5/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—301.9(103A) Fuel gas piping requirements. Fuel gas piping shall comply with the requirements of rule 641—25.3(105) and NFPA 54, ANSI Z223.1-2012, National Fuel Gas Code, 2012 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471. Liquefied petroleum gas facilities and appliances shall comply with rule 661—226.1(101).

[**ARC 8305B**, IAB 11/18/09, effective 1/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—301.10(103A) Transition period. A construction project which is subject to the provisions of any rule in 661—Chapter 301 or 661—Chapter 303 which requires compliance with provisions of the 2009 edition of any code published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, may comply with the requirements established either in the edition of the code adopted herein or the requirements established in the edition of the same code previously in effect if the project is commenced on or before January 1, 2017. "Commenced" shall mean that the submitter has obtained preliminary approval from the commissioner or a local building department pursuant to rule 661—300.6(103A) prior to July 31, 2016. If final approval for the project design has not been obtained

prior to January 1, 2017, the project is subject to the provisions of 661—Chapters 301 and 303 in effect as of May 18, 2016.

[**ARC 8305B**, IAB 11/18/09, effective 1/1/10; **ARC 1301C**, IAB 2/5/14, effective 3/12/14; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

These rules are intended to implement Iowa Code chapter 103A.

[Filed 12/2/05, Notice 9/14/05—published 12/21/05, effective 4/1/06]
[Filed 11/2/06, Notice 9/27/06—published 11/22/06, effective 1/1/07]
[Filed 10/31/07, Notice 9/12/07—published 11/21/07, effective 1/1/08]
[Filed 10/29/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]
[Filed ARC 8305B (Notice ARC 8179B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10][1]
[Editorial change: IAC Supplement 12/30/09]
[Filed Emergency ARC 8771B, IAB 5/19/10, effective 5/1/10]
[Filed Emergency ARC 9627B, IAB 7/27/11, effective 7/8/11]
[Filed ARC 9770B (Notice ARC 9562B, IAB 6/15/11), IAB 10/5/11, effective 12/1/11]
[Filed ARC 9826B (Notice ARC 9629B, IAB 7/27/11), IAB 11/2/11, effective 1/1/12]
[Filed ARC 1301C (Notice ARC 1198C, IAB 11/27/13), IAB 2/5/14, effective 3/12/14]
[Filed ARC 2492C (Notice ARC 2250C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]

[1] January 1, 2010, effective date of the portions of 661—301.8(103A) pertaining to Sections R313.1 and R313.2 delayed until the adjournment of the 2010 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2009.

CHAPTER 302
STATE BUILDING CODE—ACCESSIBILITY OF BUILDINGS AND FACILITIES AVAILABLE TO THE PUBLIC

[Prior to 12/21/05, see rules 661—16.700(103A,104A) to 661—16.720(103A,104A)]

661—302.1(103A,104A) Purpose and scope. Rules 661—302.1(103A,104A) through 661—302.20(103A,104A) are intended to ensure that buildings and facilities used by the public, other than places of worship, are accessible to, and functional for, persons with disabilities. Rule 661—302.3(103A,104A) applies statewide to new construction of buildings and facilities available to the public and to renovation and rehabilitation projects on existing buildings and facilities when local or state building codes require compliance with standards for new construction. Rule 661—302.20(103A,104A) applies statewide to construction of multiunit residential buildings.

NOTE A: Although rule 661—302.2(103A,104A) is based upon the federal 2010 ADA Standards for Accessible Design and adopts the language of the 2010 ADA Standards for Accessible Design by reference, and rule 661—302.20(103A,104A) is based upon the requirements of the federal Fair Housing Act, state and local building officials charged with enforcement of these rules are unable to warrant the acceptance of any approval of design or construction by federal agencies or any other state. A state or local official's decision to approve a building plan under these rules does not prevent the federal government or another state from making a different decision under applicable law, notwithstanding any similarities among such laws.

NOTE B: Other federal and state laws address requirements for accessibility for persons with disabilities and may be applicable to buildings and facilities subject to rules 661—302.1(103A,104A) through 661—302.20(103A,104A). Nothing in these rules should be interpreted as limiting the applicability of other provisions of state or federal law. These provisions include, but are not limited to, the following:

1. Iowa Code chapter 216, the Iowa civil rights Act of 1965.
2. Iowa Code chapter 216C, which enumerates the rights of persons who are blind or partially blind and persons with physical disabilities.
3. Iowa Code chapter 321L and 661—Chapter 18, which relate to requirements for parking for persons with disabilities.
4. The federal Architectural Barriers Act of 1968 (Public Law 90-480).
5. The federal Rehabilitation Act of 1973 (Public Law 93-112).
6. The federal Fair Housing Act of 1968 (Public Law 90-284), the federal Fair Housing Amendments Act of 1988 (Public Law 100-430), and related regulations, including 24 CFR 100, Subpart D.

[**ARC 9993B**, IAB 2/8/12, effective 3/15/12]

661—302.2(103A,104A) Definitions. The following definitions are adopted for purposes of rules 661—302.1(103A,104A) through 661—302.20(103A,104A).

"ADA" means the federal Americans with Disabilities Act, Public Law 101-336.

"ADAAG" means Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, 28 CFR Part 36, Appendix A, as revised through July 1, 1994.

"ADASAD 2010" means 2010 ADA Standards for Accessible Design, published by the U.S. Department of Justice, September 15, 2010. Included in the publication are accessibility standards for state and local government facilities and accessibility standards for public accommodations and commercial facilities.

NOTE: Copies of ADASAD 2010 and additional explanatory material may be downloaded from http://www.ada.gov/regs2010/ADAregs2010.htm.

"IBC 2015" means the International Building Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001.

[**ARC 9993B**, IAB 2/8/12, effective 3/15/12; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—302.3(103A,104A) Accessibility of buildings and facilities available to the public. Buildings and facilities which are available to the public, other than places of worship, shall comply with one of the following:

302.3(1) Applicable provisions of ADASAD 2010, or

302.3(2) IBC 2015, Chapter 11 and applicable accessibility provisions contained in IBC 2015.

NOTE: Approval of construction plans based upon compliance with the applicable provisions of the International Building Code, 2015 edition, as provided, does not relieve the designer, builder, building owner, or building operator from responsibility under federal law to comply with all applicable provisions of the 2010 ADA Standards for Accessible Design.

[**ARC 9993B**, IAB 2/8/12, effective 3/15/12; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

Rules 661—302.1(103A,104A) to 661—302.3(103A,104A) are intended to implement Iowa Code sections 103A.7, 103A.9, and 104A.1.

661—302.4(103A,104A) Site development. Rescinded IAB 2/8/12, effective 3/15/12.

661—302.5(103A,104A) Building elements and spaces accessible to the physically handicapped. Rescinded IAB 2/8/12, effective 3/15/12.

661—302.6(103A,104A) Restaurants and cafeterias. Rescinded IAB 2/8/12, effective 3/15/12.

661—302.7(103A,104A) Medical care facilities. Rescinded IAB 2/8/12, effective 3/15/12.

661—302.8(103A,104A) Business and mercantile facilities. Rescinded IAB 2/8/12, effective 3/15/12.

661—302.9(103A,104A) Libraries. Rescinded IAB 2/8/12, effective 3/15/12.

661—302.10(103A,104A) Transient lodging facilities. Rescinded IAB 2/8/12, effective 3/15/12.

661—302.11(103A,104A) Transportation facilities. Rescinded IAB 2/8/12, effective 3/15/12.

661—302.12 to **302.19** Reserved.

661—302.20(103A,104A) Making apartments accessible and functional for persons with disabilities.

302.20(1) Multiple dwelling unit buildings. This rule shall apply to all multiple dwelling unit buildings that consist of four or more dwelling units, if such buildings have one or more elevators. In such buildings without an elevator, all ground floor units must be accessible. The requirements of this rule shall apply to the individual dwelling units and the common use spaces which are accessible to persons with disabilities in multiple dwelling unit buildings.

EXCEPTION 1: A multiple dwelling unit building shall be deemed to be in compliance with this rule if it is located in a local jurisdiction which has enacted accessibility rules which have been recognized by the U.S. Department of Housing and Urban Development as providing a safe harbor for compliance with the accessibility requirements established in the federal Fair Housing Act and if the building has been found to be in compliance with those requirements, unless the building is required to comply with the requirements of the Uniform Federal Accessibility Standards, or other applicable standards which may be more restrictive than the provisions of this rule.

EXCEPTION 2: Certain multiple dwelling unit buildings are required to comply with the Uniform Federal Accessibility Standards, published by the U.S. Access Board, 1988. Compliance with the provisions of this rule does not substitute for compliance with any applicable provision of the Uniform Federal Accessibility Standards, or any other applicable standards which may be more restrictive than the provisions of this rule.

NOTE: Compliance with the Uniform Federal Accessibility Standards is generally required for buildings and facilities constructed with federal financial assistance.

"Dwelling unit" means a single unit of residence for a household of one or more persons. Examples of a dwelling unit covered by these rules include a condominium, an apartment unit within an apartment building, and another type of dwelling in which sleeping accommodations are provided but toilet or cooking facilities are shared by occupants of more than one room or portion of the dwelling. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

"Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have one or more ground floors. Where the first floor containing dwelling units in a building is above grade, all units on that floor must be served by a building entrance on an accessible route. This floor will be considered to be a ground floor.

a. The individual dwelling units shall contain an accessible route into and through the unit.

(1) All doors intended for use as passage through the dwelling unit shall have a clear opening of at least 32″ nominal width with the door open 90 degrees, measured between the face of the door and the stop. Openings more than 24″ in depth are not considered doorways.

NOTE: A 34″ door, hung in the standard manner, provides an acceptable 32″ opening.

(2) Except at doorways, the minimum clear width of the accessible route shall be at least 36″ wide.

(3) In single-story units, special features such as lofts or sunken or raised areas are not required to be on an accessible route provided the areas do not interrupt the accessible route through the remainder of the dwelling unit.

(4) In multistory dwelling units in buildings with elevators, the story of the unit that is served by the building elevator shall be the primary entry to the unit and such entry/accessible floor shall comply with the requirements of subparagraphs (1), (2) and (3) above. The entry/accessible floor shall contain a bathroom or powder room which complies with paragraph *"c"* below.

(5) Exterior deck, patio, or balcony surfaces shall be no more than ½″ below the floor level of the interior of the dwelling unit, unless they are constructed of impervious material such as concrete, brick or flagstone. In such case, the surface shall be no more than 4″ below the floor level of the interior or lower if required by local building code.

(6) Thresholds at exterior doors, including sliding tracks, shall be no higher than ¾″. Thresholds and changes in elevations as in subparagraph (5) above shall be beveled with a slope no greater than 1:2.

b. Kitchens shall meet or be adaptable to meet the following:

(1) A clear floor space at least 30″ × 48″ that allows a parallel approach by a person in a wheelchair must be provided at the range or cooktop and the sink. Either a parallel or forward approach must be provided at the oven, dishwasher, refrigerator/freezer or trash compactor.

(2) Clearance between counters and all opposing base cabinets, countertops, appliances or walls must be at least 40″. In U-shaped kitchens with a sink or cooktop at the base of the "U," the base cabinets must be removable at that location or a 60″ turning radius must be provided.

c. All bathrooms of covered multifamily dwelling units shall comply with provisions of subparagraph (1) of this paragraph or at least one bathroom in the dwelling unit shall comply with provisions of subparagraph (2) of this paragraph and all other bathrooms and powder rooms within the dwelling unit must be on an accessible route with usable entry doors in accordance with paragraph *"a"* above.

However, in multistory dwelling units, only those bathrooms on the accessible level are subject to these requirements. Where the powder room is the only facility provided on the accessible level of a multistory dwelling unit, the powder room must comply with the provisions of subparagraph (1) or (2) of this paragraph.

(1) Sufficient maneuvering space shall be provided within the bathroom for a person using a wheelchair or other mobility aid to enter and close the door, use the fixtures, reopen the door and exit. Doors may swing into the clear floor space provided at any fixture if the maneuvering space is provided. Maneuvering space may include any knee space or toe space available below the bathroom fixtures.

Clear floor space at fixtures may overlap.

If the shower stall is the only bathing facility provided in the covered dwelling unit, the shower stall shall measure at least 36″ × 36″.

NOTE: Cabinets under lavatories are acceptable provided the bathroom has space to allow a parallel approach by a person in a wheelchair; if parallel approach is not possible within the space, any cabinets provided would have to be removable to afford the necessary knee clearance for forward approach.

(2) Where the door swings into the bathroom, there shall be a clear space (2′6″ × 4′0″) within the room to position a wheelchair or other mobility aid clear of the path of the door as it is closed and to permit the use of the fixtures. This clear space can include any knee space and toe space available below the bathroom fixtures.

Where the door swings out, a clear space shall be provided within the bathroom for a person using a wheelchair or other mobility aid to position the wheelchair such that the person is allowed use of the fixtures. There also shall be a clear space to allow persons using wheelchairs to reopen the door to exit.

When both tub and shower fixtures are provided in the bathroom, at least one fixture shall be made accessible. When two or more lavatories are provided in a bathroom, at least one shall be made accessible.

Toilets shall be located within bathrooms in a manner that permits a grab bar to be installed on one side of the fixture. In locations where toilets are adjacent to walls or bathtubs, the centerline of the fixture shall be a minimum of 1′6″ from the obstacle. The other (nongrab bar) side of the toilet fixture shall be a minimum of 1′3″ from the finished surface of the adjoining walls, vanities, or the edge of a lavatory.

Vanities and lavatories shall be installed with the center line of the fixture a minimum of 1′3″ horizontally from an adjoining wall or fixture. The top of the fixture rim is a maximum height of 2′10″ above the finished floor. If knee space is provided below the vanity, the bottom of the apron is at least 2′3″ above the floor. If provided, full knee space (for front approach) is at least 1′5″ deep.

Bathtubs and tub/showers located in the bathroom shall provide a clear access aisle adjacent to the lavatory that is at least 2′6″ wide and extends for a length of 4′0″ (measured from the head of the bathtub).

Stall showers in the bathroom may be of any size or configuration. A minimum clear floor space 2′6″ wide × 4′0″ deep should be available outside the stall. If the shower stall is the only bathing facility provided in the covered dwelling unit, or on the accessible level of a covered multistory unit, and measures a nominal 36″ × 36″, the shower stall must have reinforcing to allow for installation of an optional wall-hung bench seat.

d. Walls in bathrooms which are to be adaptable shall be reinforced to allow later installation of grab bars around toilet, tub, shower stall and shower seat where provided.

Where the toilet is not placed adjacent to a side wall, provision shall be made for floor-mounted foldaway or similar alternative grab bars. Where the powder room is the only toilet facility located on an accessible level of a multistory dwelling unit, it must comply with this requirement for reinforced walls for grab bars. “Powder room” means a room with a toilet and sink.

NOTE: A tub may have shelves or benches at either end; or a tub may be installed without surrounding walls, if there is provision for alternative mounting of grab bars. For example, a sunken tub placed away from walls could have reinforced areas for installation of floor-mounted grab bars. The same principle applies to shower stalls, e.g., glass-walled stalls could be planned to allow floor-mounted grab bars to be installed later.

Reinforcement for grab bars may be provided in a variety of ways (for example, by plywood or wood blocking) so long as the necessary reinforcement is placed so as to permit later installation of appropriate grab bars.

e. Public and common use areas shall be readily accessible to and usable by persons with disabilities.

f. Light switches, electrical outlets, thermostats and other environmental controls shall be located no higher than 48″, and no lower than 15″, above the floor. If the reach is over an obstruction (for example, an overhanging shelf) between 20″ and 25″ in depth, the maximum height is reduced to 44″ for forward approach; or 46″ for side approach, provided the obstruction (for example, a kitchen base cabinet) is no more than 24″ in depth. Obstructions should not extend more than 25″ from the wall beneath a control. (See ADAAG Figure 5.)

NOTE: Controls or outlets that do not satisfy these specifications are acceptable provided that comparable controls or outlets (i.e., that perform the same functions) are provided within the same area and are accessible.

302.20(2) Elevators. An elevator shall be required in any apartment building of four or more stories. An elevator required by this subrule shall meet the requirements established for accessible elevators in rule 661—302.5(103A,104A), which adopts by reference section 4.10 of the Americans with Disabilities Act Accessibility Guidelines (28 CFR Part 36, Appendix A).

NOTE: Elevators are not required in apartment buildings of three or fewer stories; however, the Uniform Federal Accessibility Standards, or any other applicable standard, may require the installation of an elevator. If an elevator is not required to be installed by this rule, then the elevator is not subject to the requirements of rule 661—302.5(103A,104A).

302.20(3) Any covered units within a multiple unit dwelling which comply with a code or standard which has been certified as a safe harbor for compliance with the accessibility requirements of the federal Fair Housing Act by the U.S. Department of Housing and Urban Development shall be deemed to be in compliance with rule 661—302.20(103A,104A), unless the covered units are required to comply with the Uniform Federal Accessibility Standards or any other applicable requirements which may be more restrictive than the provisions of this rule.

Rule 661—302.20(103A,104A) is intended to implement Iowa Code sections 103A.7(5) and 104A.2.

[Filed 12/2/05, Notice 9/14/05—published 12/21/05, effective 4/1/06]
[Filed ARC 9993B (Notice ARC 9922B, IAB 12/14/11), IAB 2/8/12, effective 3/15/12]
[Filed ARC 2492C (Notice ARC 2250C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]

CHAPTER 315
WEATHER SAFE ROOMS

661—315.1(103A) Scope. The standards adopted in this chapter shall apply to the design and construction of weather safe rooms constructed on or after January 1, 2017. The rules in this chapter do not require the construction of a weather safe room or rooms for any construction project but establish standards for design and construction of weather safe rooms when their construction is required by another provision of law or is incorporated voluntarily in a construction project.
[**ARC 8695B**, IAB 4/21/10, effective 7/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—315.2(103A) Definition. The following definition shall apply to this chapter:

"Weather safe room" means a building, structure, or portion of a building or structure built in accordance with the requirements established in this chapter and designated for use during a severe windstorm event.
[**ARC 8695B**, IAB 4/21/10, effective 7/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

661—315.3(103A) Requirements. Any weather safe room constructed on or after January 1, 2017, shall be designed and constructed in compliance with the provisions of ICC 500-2014, ICC/NSSA Standard for the Design and Construction of Storm Shelters, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001. Any provision which would apply to a hurricane safe structure but not to a tornado safe structure shall not apply. For any provision for which a distinction is made between a tornado safe structure and a hurricane safe structure, the requirement for a tornado safe structure shall apply.
[**ARC 8695B**, IAB 4/21/10, effective 7/1/10; **ARC 2492C**, IAB 4/13/16, effective 5/18/16]

These rules are intended to implement 2009 Iowa Acts, chapter 142.

[Filed ARC 8695B (Notice ARC 8521B, IAB 2/10/10), IAB 4/21/10, effective 7/1/10]
[Filed ARC 2492C (Notice ARC 2250C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]

CHAPTER 350
STATE HISTORIC BUILDING CODE

661—350.1(103A) Scope and definition.

350.1(1) *Scope.* This chapter applies to buildings which meet the requirements for placement on the National Register of Historic Places. This chapter is an alternative to the state building code or local building codes for the buildings to which it applies.

"Historic building" means any building or structure that is listed in the state or National Register of Historic Places; that is designated as a historic property under local or state designation law or survey; that is certified as a contributing resource within a National Register-listed or locally designated historic district; or that has an opinion or certification that the property is eligible to be listed on the state or National Register of Historic Places either individually or as a contributing building to a historic district by the state historic preservation officer pursuant to Iowa Code section 103A.42 or the Keeper of the National Register of Historic Places.

350.1(2) *Administration.* The provisions of 661—Chapter 300 are adopted by reference.

350.1(3) *Adoption.* The provisions of the International Existing Building Code, 2015 edition, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001, are hereby adopted as the alternative requirements for rehabilitation, preservation, restoration, repair, alteration, change of occupancy and relocation of and addition to historic buildings, with the following amendments:

Delete section 101.1.

Delete section 101.4.2 and insert in lieu thereof the following new section:

101.4.2 Buildings previously occupied. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

Delete section 101.5.

Delete section 101.6.

Delete section 101.7.

Delete sections 103, 104, and 105 and sections therein.

Delete sections 106.1, 106.3, 106.4, 106.5, and 106.6.

Delete sections 108, 109, 110, 112, 113, 114, 115, 116 and 117 and sections therein.

Delete the definition of "historic building."

Delete section 705.

Delete section 906.

Delete section 1012.8.

Delete section 1105.1.

Delete section 1205.15.

Delete appendix B and insert in lieu thereof "Any building or facility subject to this Chapter shall comply with the provisions of 661—Chapter 302."

Delete all references to the "International Fuel Gas Code" and insert in lieu thereof "rule 661—301.9(103A)."

Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

Delete all references to the "International Mechanical Code" and insert in lieu thereof "state mechanical code."

Delete all references to the "International Building Code" and insert in lieu thereof "rule 661—301.3(103A)."

Delete all references to the "International Residential Code" and insert in lieu thereof "rule 661—301.8(103A)."

Delete all references to the "International Fire Code" and insert in lieu thereof "state fire code."

EXCEPTION: A construction project subject to the provisions of this rule may comply with either the requirements adopted herein or the provisions of this rule as it was previously published if the project is commenced on or before June 30, 2016.

NOTE 1: International Existing Building Code, 2015 edition, Resource A, provides guidelines for evaluating fire ratings of archaic materials and assemblies which may be used by designers and code officials when evaluating compliance with provisions of this chapter.

NOTE 2: Except for elevators excluded from the jurisdiction of the Iowa division of labor services by the provisions of Iowa Code section 89A.2, each elevator is required to comply with any applicable requirements established by the Iowa division of labor services and is subject to enforcement of any applicable regulations by the Iowa division of labor services.

NOTE 3: Except for boilers and pressure vessels excluded from the jurisdiction of the Iowa division of labor services by the provisions of Iowa Code section 89.4, each boiler or pressure vessel is required to comply with any applicable requirements established by the Iowa division of labor services and is subject to enforcement of any applicable regulations by the Iowa division of labor services.

Any boiler which is subject to requirements established by the Iowa department of natural resources is required to comply with any such requirements and is subject to enforcement of any applicable regulations by the Iowa department of natural resources.

This rule is intended to implement Iowa Code sections 103A.41 through 103A.45.

[**ARC 8304B**, IAB 11/18/09, effective 1/1/10; **ARC 2493C**, IAB 4/13/16, effective 5/18/16]

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[Filed ARC 2493C (Notice ARC 2265C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]

CHAPTER 23
VOTER REGISTRATION IN STATE AGENCIES

721—23.1(48A) Definitions.

"Agency" means a voter registration agency as defined in Iowa Code section 48A.19 and the offices of each county auditor.

"Applicant" means a person who is provided an application for services or assistance by a voter registration agency. This includes persons who have been accepted for services or assistance and who are submitting change of address notices or applications for renewal or recertification. The term also includes a person who has submitted an application for services or assistance and whose application has been rejected by the agency.

"Application" means the forms used to request services or assistance from a voter registration agency and which are used to determine eligibility. If no written form is required or used, "application" means the act of requesting services or assistance.

"Recertification" means a process initiated by the agency to reevaluate the applicant's qualifications for services or assistance. This does not include regular reports by applicants to show continuing eligibility or compliance with agency requirements.

"Renewal" means the process of applying to continue to receive services or assistance from an agency after the prescribed time of service has passed.

"Service or assistance" means a government benefit or service other than voter registration for which application is made to an agency.

721—23.2(48A) Registration forms. The use of electronic registration records and combined forms for voter registration and for application for services is encouraged. These forms shall be approved by the voter registration commission. Otherwise, the Iowa mail registration form shall be used. Agencies, such as military recruiting offices, which serve a substantial number of applicants who live outside the state of Iowa shall keep a supply of the Election Assistance Commission's national registration form.

721—23.3(48A) Declination forms. The offer of voter registration shall include a declination form in substantially the following form:

STATE OF IOWA
Voter Registration Information

You can apply to register to vote when you apply for assistance. This agency is required to offer you the chance to register to vote.

Registration Rules—You must be registered before you can vote in an election.

To register to vote in Iowa you must—

- be a citizen of the United States
- be a resident of Iowa
- be at least 17½ years old (you must be 18 to vote)
- not have been convicted of a felony (or have had your rights restored)
- not currently be judged "mentally incompetent" by a court
- give up the right to vote in any other place.

Help: If you would like help in filling out the voter registration form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.

Benefits: Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.

Privacy: If you register to vote, the name of the office where you turn in the form will be kept private. If you do not register to vote, this fact will be kept private. This information will be used only for voter registration purposes.

Complaints: If you believe that someone has interfered with your right to

- register or to decline to register to vote,
- privacy in deciding whether to register,
- privacy in applying to register to vote,
- choose your own political party or other political preference,

you may file a complaint with:

Voter Registration Commission
Office of the Secretary of State
Lucas State Office Building
Des Moines, Iowa 50319
Telephone: (515)281-0145

If you are not registered to vote where you live now, would you like to apply to register to vote here today?

□ **Yes,** I want to register to vote.

□ **No,** I do not want to register to vote.

If you do not check either box, you will be considered to have decided not to register to vote at this time.

Sign here: X _____

Print your name: _____ Date: _____

[**ARC 2490C**, IAB 4/13/16, effective 5/18/16]

721—23.4(48A) Electronic declination records.

23.4(1) The agency may offer the opportunity to register to vote orally and record the applicant's responses electronically. The agency shall ask each applicant the following questions:

"Did you receive a copy of the Voter Registration Information brochure?" If the applicant has not received it, the agency shall provide the applicant with a copy of the brochure and shall review it with the applicant. Then the applicant shall be asked the following question:

"If you are not registered to vote where you live now, would you like to apply to register to vote here today?" (The applicant may answer yes or no. If the applicant does not answer, the applicant shall be presumed to have declined to register to vote.)

23.4(2) The agency shall track the results of its voter registration activities in a form prescribed by the secretary of state's office. The agency shall report those totals in the prescribed format to the elections division of the secretary of state's office.

23.4(3) The secretary of state's office shall make the information available upon request.

[**ARC 2490C**, IAB 4/13/16, effective 5/18/16]

721—23.5(48A) Retention and storage of declination forms. Declination forms shall be retained by the agency receiving them for 22 months after the next general election following receipt of the form. Declination forms signed during the ten days before a general election, when registration is closed, shall be retained for 22 months after the general election to be held in two years. The forms shall be stored in a secure location where the safety and confidentiality of the records can be protected. If the applicant's responses are stored electronically, the declination record shall be retained by the agency for the same period of time required for paper declination forms. The secretary of state's office shall maintain on its Web site a schedule for disposal of declination forms.

[**ARC 2490C**, IAB 4/13/16, effective 5/18/16]

721—23.6(48A) Distribution of voter registration forms. All persons, except those exempted by rule 721—23.10(48A), who receive an application for services or assistance from a designated voter registration agency shall be given, along with the application, a voter registration form and the declination form described in rule 721—23.3(48A).
[**ARC 2490C**, IAB 4/13/16, effective 5/18/16]

721—23.7(48A) Applications, recertifications, renewals and changes of address received from applicant representatives. Agencies which permit applicants to be represented by another person shall offer the opportunity to register to vote to each applicant. The declination form and registration form shall be given to the applicant's representative. If the applicant registers to vote, the applicant shall sign the form. The declination form and registration form shall be returned to the agency.

721—23.8(48A) Recertification and renewal applications. Applicants who apply in person for recertification and renewal of agency services or assistance shall be offered the opportunity to register to vote in the same way the offer is made to applicants making initial applications for services or assistance.

If the agency accepts recertification and renewal applications by telephone or by mail, the agency shall mail the applicant the declination form and a voter registration form.

721—23.9(48A) Change of address notices.

23.9(1) *In person.* The agency shall offer the opportunity to register to vote to each applicant who submits a change of address notice in person. The applicant shall be provided with the declination form and the voter registration form.

23.9(2) *By telephone.* Agencies are strongly urged to offer the opportunity to register to vote to applicants who submit changes of address by telephone. The applicant may be asked whether the change of address is intended for voter registration purposes. If the applicant says yes, the applicant shall be mailed a voter registration form.

23.9(3) *By mail.* Change of address forms provided by the agency shall include the declination form and a voter registration form. If the change of address is reported without the use of the form, the agency shall provide the applicant with a written verification of the reported change of address which instructs the applicant how to obtain a voter registration form.

721—23.10(48A) Ineligible applicants.

23.10(1) *Ineligible minor applicants.* An agency that has applicants who are ineligible to vote because they are minors shall not offer an opportunity to register to vote to applicants who the agency has validated are under the age of 17½. The agency must still offer information about voter registration to all applicants.

23.10(2) *All other ineligible applicants.* Except for those applicants specifically described in subrule 23.10(1), the opportunity to register to vote must be offered to every applicant. The applicant, not the agency, is responsible for determining the applicant's eligibility to register to vote. The agency shall accept a registration form even if it is submitted by an applicant the agency believes to be ineligible to register to vote.

Applicants who are not accepted for services or assistance by an agency shall be offered the opportunity to register to vote. Even if the applicant will not receive services or assistance from the agency, voter registration forms shall be processed and transmitted not later than the final working day of the week to the appropriate county commissioner of elections as required by Iowa Code section 48A.21.
[**ARC 2490C**, IAB 4/13/16, effective 5/18/16]

721—23.11(48A) Other voter registration agencies. The offices of all Iowa county auditors shall provide voter registration services to applicants for services, such as licenses issued by the auditor's

office. These offices are required to provide declination forms to each person who is offered the opportunity to register to vote when applying for services at the auditor's office.

These rules are intended to implement Iowa Code section 48A.19(3) and Section 1973gg-5 of the National Voter Registration Act of 1993.

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CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

751—2.1(17A,22) Purpose and scope.

2.1(1) This chapter implements Iowa Code section 22.11 by establishing commission policies and procedures for the maintenance of records. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate sound commission determinations with respect to the handling of records and the implementation of the fair information practices Act. This commission is committed to the policies set forth in Iowa Code chapter 22; commission staff shall cooperate with members of the public in implementing the provisions of that chapter.

2.1(2) This chapter does not:

a. Require the commission to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

b. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

c. Govern the maintenance or disclosure of, notification of, or access to records in the possession of the commission which are governed by the rules of another commission.

d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

e. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations.

751—2.2(17A,22) Definitions. As used in this chapter:

"Commission" means the Iowa telecommunications and technology commission.

"Confidential record" means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the commission is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" means the commission or a person lawfully delegated authority by its executive director to act for the commission in implementing Iowa Code chapter 22.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

"Record" in these rules means the whole or a part of a "public record" as defined in Iowa Code section 22.1.

"Record system" means any group of records under the control of the commission from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol or other unique retriever assigned to an individual.

"Subject" means that person identified in a record.

751—2.3(17A,22) Requests for access to records.

2.3(1) *Location of record.* A request for access to a record should be directed to the executive director or the particular commission office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the executive director at the ICN main office location as listed in 751—subrule 1.6(1). If a request for access to a record is misdirected, commission personnel will promptly forward the request to the appropriate person within the commission.

2.3(2) *Office hours.* Open records shall be made available during all customary office hours which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

2.3(3) *Request for access.* Requests for access to open records may be made in writing or in person. The office may also accommodate telephone requests where appropriate. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

2.3(4) *Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access unfeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code section 22.8(4) or 22.10(4) or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 751—2.4(17A,22) and other applicable provisions of law.

2.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from commission files. Examination and copying of commission records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

2.3(6) *Copying.* A reasonable number of copies of an open record may be made in the commission's office. If photocopy equipment is not available in the commission office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

2.3(7) *Fees.*

a. When charged. To the extent permitted by applicable provisions of law, the payment of fees may be waived in the case of small requests when the imposition of fees is inequitable or when a waiver is in the public interest. Charges for examination or copies requested in writing by a person in a capacity as representative of another governmental entity or where copies are provided under provisions of a written commission contract may be waived.

b. Copying and postage costs. Anyone making a request for reproduction of the commission's records will prepay for services at the following rates, in addition to actual mailing costs:

(1) Photocopies (direct copies on 8½″ x 11″ or 8½″ x 14″ paper)—50 cents per page. For direct photocopies on 11″ x 17″ paper—65 cents per page. The fee for photocopies exceeding 11″ x 17″ will be reviewed and reasonable fees will be provided to the requester upon determination of the commission's ability to photocopy.

(2) Paper copy from microfilm records—50 cents per page.

(3) Microfiche copy from microfilm records—$1 per fiche.

(4) The actual reproduction cost will be charged for any blueprint, picture, oral tape or any other work product not subject to photocopying.

(5) Computer-stored information. Tape files—$100 per file, copied only to 9-track tape with standard IBM labels. Three UP gummed mailing labels and 4 UP Cheshire labels, 30 cents per 1000 records read, and $10 per 1000 labels written. There will be a $15 charge for information copied on computer diskette. A minimum charge of $15 or actual cost will be assessed, whichever is greater. Electronic copies (8½″ x 11″, 8½″ x 14″, or 11″ x 17″) will be provided at no cost. Requests for electronic copies exceeding 11″ x 17″ will be reviewed and reasonable fees will be provided to the requester upon determination of the commission's ability to transmit and duplicate. Programming time over ten minutes will be charged at the rate of $25 per hour or any portion of an hour.

c. Supervisory fee. An hourly fee may be charged for actual commission expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian shall prominently post in commission offices the hourly fee to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of a commission clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

d. Search fees. If the request requires research or if the record or records cannot reasonably be readily retrieved by the office, the requester will be advised of this fact. Reasonable search fees ($15 per hour or any portion of one hour) may be charged where appropriate for either paper or electronic copy requests. In addition, all costs for retrieval and copying of information stored in electronic storage systems may be charged to the requester.

e. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds $25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

751—2.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 751—2.3(17A,22).

2.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

2.4(2) *Requests.* The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

2.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specified period of time during which disclosure will be delayed for that purpose.

2.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

2.4(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

751—2.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from

examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

2.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

2.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the commission by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

2.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the commission does not request that it be withheld from public inspection under Iowa Code section 22.7(3) or 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

2.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

2.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

2.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8 or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reason for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

2.5(7) *Processing of business confidentiality claims.*

a. Applicability/availability. Businesses which provide information to the commission in applications, reports or otherwise in recorded form, or from or about which information is obtained and recorded by the commission, may request that information not be disclosed to others for reasons of business confidentiality. Until such time as a request for confidentiality is received by the commission, the information provided to the commission will be available to the public pursuant to subrule 2.3(3). If a claim is received after the information itself is received, the commission will make such efforts as are administratively practicable to associate the claim with all copies of the previously received information. However, the commission cannot ensure that such efforts will be effective, in light of the possibility of prior disclosure or dissemination of the information beyond the commission's reasonable control.

b. Form. A business which submits information to the commission may assert a business confidentiality claim in the manner prescribed in the application or instruction, if any, otherwise by placing on or attaching to the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." When only a portion of the information is claimed to be confidential, only that portion shall be deleted from the application, report or other recorded submission, with appropriate reference to a separate claim for business confidentiality, which separate claim shall be submitted as specified above. If a request not to disclose information is filed with the commission, the party shall file together with the document a second copy of the document from which has been deleted the information for which such party wishes to claim confidential treatment. The business shall conspicuously indicate on the face of the original document that it is confidential information and shall file a claim for confidential status in accordance with the provisions of 2.5(7)*"c."*

A business which has reason to believe that the commission has received information which the business asserts to be confidential may request that such information, described with reasonable specificity, be maintained as confidential, in the same manner as specified above.

c. Contents of claim. All claims for confidentiality must be substantiated with the following information:

(1) A statement of all measures the business has taken to protect the confidentiality of the information, and a statement of intent to continue to take such measures;

(2) Practices and policies of other businesses, if known, regarding confidentiality of similar information;

(3) A statement that the information is not, and has not been, reasonably attainable without the consent of the business by other persons other than government bodies by use of legitimate means;

(4) A statement demonstrating that disclosure of the information is likely to cause substantial harm to the business's competitive position;

(5) A reference to any other determinations of confidential status of the information or similar information.

d. Initial action by commission. All claims will be reviewed within ten days of receipt for completeness. If the claim does not include the substantiation required by 2.5(7)*"c,"* the business making the claim will be so notified by certified mail. If the substantiation or comment regarding the inapplicability of 2.5(7)*"c"* is not received by the commission within ten days of the date on the return receipt, the commission will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the commission until further notice. A timely response from the notice under this paragraph will be ruled on by the commission within ten days, based on the compliance with 2.5(7)*"c."*

e. Initiation of official determination. All claims not rejected under 2.5(7)*"d"* shall receive an official determination when a request for disclosure covering such information is received by the commission or when the commission deems it advisable to make a determination because a request for disclosure is likely to be received or because of administrative burdens in maintaining the information confidential. The procedures and criteria below shall be followed.

f. Substantive criteria for use in confidentiality determinations. Determinations shall hold that business information is entitled to confidential treatment for the benefit of a particular person if:

(1) The business has taken and intends to continue to take reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The claim is not unreasonable in view of the nature of the information, the interests, and normal practices of the business, and the practices of other businesses;

(4) No statute or rule specifically requires disclosure of the information; and

(5) There is a substantial likelihood that disclosure of the information would cause substantial harm to the competitive position of the business.

Prior determinations by the courts, the commission or other agencies on the information or similar information shall be given due consideration and effect.

g. Preliminary determination—opportunity for comment. The commission shall transmit its preliminary determination regarding a claim for business confidentiality to the claimant by certified mail, notifying the claimant of the opportunity to provide comments within ten days, subject to reasonable extension upon written request, and that failure to comment will be construed to indicate agreement with the preliminary determination. If the determination is in response to a request for disclosure, the person requesting the disclosure shall be sent a similar notice in the same manner within ten days of the request.

h. Final determination. A final decision shall be issued within ten days after the close of the comment period to the preliminary determination. If any substantial comments are received, the final decision shall be made by the executive director or the commission's designee. If no substantial comments are received, the claimant and the person requesting disclosure, if any, shall be notified that the preliminary determination is the final decision.

i. Contested case status. All procedures within this rule shall not be considered contested case proceedings as provided in Iowa Code chapter 17A.

751—2.6(17A,22) Procedure by which additions, dissents or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any commission proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents or objections to the custodian or to the attorney general. The request to review a written statement must be dated and signed by requester and shall include the current address and telephone number of the requester or the requester's representative.

751—2.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the commission to disclose records about that person to the person's attorney.

751—2.8(17A,22) Notice to suppliers of information. When a commission form requests a person to supply information about that person, the commission shall notify the person of the use that will be made of the information, which persons outside the commission might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in

contracts, in handbooks, in manuals, verbally or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law or similar demands for information.

751—2.9(17A,22) Disclosures without the consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 751—2.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the commission with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.

c. To another government commission or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government commission or instrumentality has submitted a written request to the commission specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

751—2.10(17A,22) Routine use.

2.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

2.10(2) To the extent allowed by law, the following uses are considered routine uses of all commission records:

a. Disclosure to those officers, employees and agents of the commission who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action or regulatory order.

c. Disclosure to the commission or officer which this office is advising or representing in the matter in question or to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the commission.

d. Transfer of information within the commission, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the commission is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

751—2.11(17A,22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to commission disclosure of confidential records as provided in rule 751—2.7(17A,22).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the commission may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

751—2.12(17A,22) Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 751—2.6(17A,22). However, the commission need not release the following records to the subject:

a. The identity of a person providing information to the commission need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. See Iowa Code section 22.7(5).

d. As otherwise authorized by law.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the commission may take reasonable steps to protect confidential information relating to another subject.

751—2.13(17A,22) Availability of records.

2.13(1) *General.* Commission records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids;

b. Bids that are opened and only the vendor's name is announced. The proposals will remain confidential until the proposals have been evaluated and the notice of intent to award a contract is made. See Iowa Code section 72.3;

c. Tax records made available to the commission;

d. Records which are exempt from disclosure under Iowa Code section 22.7;

e. Minutes of closed meetings of a government body;

f. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"d"*;

g. Those portions of commission staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the commission.

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

i. Trade secrets which are recognized and protected as such by law including but not limited to network plans from authorized users.

j. Reports to the commission and the agency which, if released, would give advantage to competitors and serve no public purpose including network redesign and engineering or other research and development working papers for improvement or enhancement of the network.

k. Any data processing software developed by the agency.

l. Records concerning security procedures or emergency preparedness developed and maintained by the commission or other federal or state agency for the protection of governmental employees, visitors to the agency, persons in the care, custody, or under the control of the agency, or property under the jurisdiction of the agency, if disclosure could reasonably be expected to jeopardize such employees, visitors, or property. Pursuant to Iowa Code section 22.7(50), specific records or classes of records to which this protection also applies may include specific information related to the physical network, contract- and vendor-related records and information associated with security and emergency preparedness, and similar or related records and information.

m. Any other records made confidential by law.

2.13(3) *Authority to release confidential records.* The commission may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 751—2.4(17A,22). If the commission initially determines that it will release such records, the commission may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

[**ARC 2497C**, IAB 4/13/16, effective 3/25/16]

751—2.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the commission by personal identifier in record systems as defined in rule 751—2.2(17A,22). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the commission are:

2.14(1) Payroll and personnel information system.*

2.14(2) Vendor files.

2.14(3) Certificates of insurance for contractors performing work for the commission.

2.14(4) Referrals to the attorney general.

2.14(5) Contract and lease files.

2.14(6) Accounts receivable and accounts payable system.*

2.14(7) Various grant planning files, confidential trade secrets, litigation files.

All of the above-listed records are collected pursuant to the authority of Iowa Code Supplement chapter 8D. All are stored in paper form with those items noted by an asterisk (*) also stored in electronic form. Supplementary records in these categories are stored in paper form or on microfilm or microfiche. None of the information stored can be matched, collated or compared.

751—2.15(17A,22) Other groups of records. This rule describes groups of records maintained by the commission other than record systems as defined in rule 751—2.2(17A,22). These records are routinely available to the public. However, the commission's files of these records may contain confidential information designated as confidential by the originator of the records in conformance with Iowa Code chapter 22. In addition, some records may contain information about individuals. All storage is in paper form with those items noted by an asterisk (*) also stored in electronic form. None of the information can be matched, collated or compared.

2.15(1) *Rule making.* Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

2.15(2) *Commission records.* Agendas, minutes and materials presented to the commission are available from the office of the executive director, except these records concerning closed sessions which are confidential under Iowa Code section 21.5 or which are otherwise confidential by law.

2.15(3) *Meeting participants.* Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored in an automated data processing system.

2.15(4) *Publications.* News releases, annual reports, project reports, and commission newsletters, for example, are available from the commission offices for public information. Commission news releases, project reports, and newsletters may contain information about individuals, including commission staff or members of the commission, the councils or committees.

2.15(5) *Statistical reports.* Periodic reports for various commission programs are available from the commission offices for public information.

2.15(6) *Published materials.* The commission uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

2.15(7) *Policy manuals.* The commission's policy manual, containing the policies and procedures for programs administered by the commission, is available in the office of the commission. Policy manuals do not contain information about individuals.

2.15(8) *Asset files.* Asset management database and inventory database contain a listing of the assets owned by the network.*

2.15(9) *Mailing lists/contact lists.* Names, mailing addresses, and telephone numbers of state employees, commission members, officials in government of other states, and members of the general public*, for example, may be used for distribution of informational material, such as newsletters, policy directives or educational bulletins. They are also used to provide contacts for coordination of services or as reference information sources.

2.15(10) *Authorized user lists.* The network maintains a list of persons authorized to use the network.

2.15(11) *Bid/purchasing process.* For example, specifications, proposals, bid documents, awards, contracts, agreements, leases, performance bonds, requisitions, purchase orders, supply orders, and correspondence.

2.15(12) *Project files.* For example, plans, specifications, contracts, studies, drawings, photos, blueprints, requests for services, lease/rental files, and 28E agreements.

2.15(13) *Data processing files.* For example, operations logs, data base user requests, job number maintenance/update, data entry format book, integrated data dictionary, computer output forms designations, system software, hardware/software documentation and configurations, problem determinations and resolutions records, and incident reports.

2.15(14) *Administrative records.*

a. Reports: For example, weekly, monthly, annual, biennial, statistical, analysis, and activity.

b. Correspondence: For example, public, interdepartmental, and internal.

c. Policies and procedures.

d. Organizational charts, and table of authorized positions.

e. Memberships: Professional/technical organizations.

f. Planning: Disaster recovery plans, emergency operation plans.

g. Budget and financial records.

h. Accounting records such as accounts receivable, accounts payable, receipts, invoices, claims, vouchers, and departmental billings.

i. Legislative files such as pending bills, enrolled bills, legislative proposals, and copies of amendments.

2.15(15) *Other records.* All other records that are not exempted from disclosure by law are open.

These rules are intended to implement Iowa Code section 22.11, Iowa Code Supplement section 8D.3(3)*"b,"* and 1996 Iowa Acts, House File 2407.

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CHAPTER 14
VETERANS TRUST FUND

801—14.1(35A) Purpose. These rules establish the requirements for veterans or their spouses or dependents to receive benefits from the veterans trust fund.

801—14.2(35A) Definition. For purposes of this chapter, "veteran" means the same as defined in Iowa Code section 35.1, or a resident of Iowa who served in the armed forces of the United States, completed a minimum aggregate of 90 days of active federal service, other than training, and was discharged under honorable conditions, or a former member of the national guard, reserve, or regular component of the armed forces of the United States who was honorably discharged due to injuries incurred while on active federal service that precluded completion of a minimum aggregate of 90 days of active federal service, other than training.
[**ARC 7823B**, IAB 6/3/09, effective 7/8/09]

801—14.3(35A) Eligibility. Veterans, their spouses, and their dependents applying for benefits available under subrules 14.4(1) through 14.4(9) must meet the following threshold requirements.

14.3(1) *Income.* For the purposes of this chapter, an applicant's household income, including VA pension benefits, service-connected disability income, and social security income, shall not exceed 200 percent of the federal poverty guidelines for the number of family members living in the primary residence in effect on the date the application is received by the county director of veterans affairs. Federal poverty guidelines shall be those guidelines established by the Iowa department of human services for the veteran's family size. The commission shall adjust the guidelines on July 1 of each year to reflect the most recent federal poverty guidelines. The commission may waive the income threshold if all income is from a fixed source and all other sources of assistance have been exhausted.

14.3(2) *Resources.* The department may not pay benefits under this chapter if the available liquid assets of the veteran are in excess of $15,000. For the purposes of this chapter, "available liquid assets" means cash on hand, cash in a checking or savings account, stocks, bonds, certificates of deposit, treasury bills, money market funds and other liquid investments owned individually or jointly by the applicant and the applicant's spouse, unless the applicant and spouse are separated or are in the process of obtaining a divorce, but does not include funds deposited in IRAs, Keogh plans or deferred compensation plans, unless the veteran is eligible to withdraw such funds without incurring a penalty. Cash surrender value of life insurance policies, real property, established burial account, or a personal vehicle shall not be included as available liquid assets.

14.3(3) *Funding from other sources.* Applications shall not be approved if the applicant is eligible to receive aid from other sources to meet the purposes authorized in this chapter.

14.3(4) *Additional requirements and limitations.* Applicants must meet any additional requirements and are subject to any limitations which may be set out in this chapter or which may be established for a particular benefit.
[**ARC 7823B**, IAB 6/3/09, effective 7/8/09; **ARC 0057C**, IAB 4/4/12, effective 5/9/12]

801—14.4(35A) Benefits available. Applications may be approved for any of the following purposes. By a majority vote, the commission may suspend some or all of these benefits for payment.

14.4(1) *Travel expenses for wounded veterans, and their spouses, directly related to follow-up medical care.* Travel expenses under this subrule include the unreimbursed cost of airfare, lodging, and a per diem of $25 per day for required out-of-state medical travel that exceeds 125 miles from the veteran's home. Spouses may be reimbursed for in-state lodging and a per diem of $25 per day when visiting a veteran who is in a hospital for medical care related to a service-connected disability. The distance from the veteran's home to the hospital must exceed 100 miles. The veteran or the veteran's spouse shall provide such evidence as the commission may require, which includes but is not limited to evidence the injury or disability is service-connected, the necessity of treatment in a particular facility, and documentation of expenses. The maximum amount for lodging reimbursement shall be $90. The

maximum amount of aid payable in a consecutive 12-month period under this subrule is $1,000. The commission may waive the income threshold for this benefit.

14.4(2) *Job training or college tuition assistance for job retraining.*

a. The commission may pay a veteran not more than $3,000 for retraining or postsecondary education to enable the veteran to obtain gainful employment. The commission may provide aid under this subrule if all of the following apply:

(1) The veteran is enrolled in a training course in a technical college or school, is enrolled in an accredited postsecondary institution, or is engaged in a structured on-the-job training program.

(2) The veteran is unemployed, underemployed, or has received a notice of termination of employment.

(3) The commission determines that the veteran's proposed program, or current program, will provide retraining or initial training that could enable the veteran to find gainful employment. In making its determination, the commission shall consider whether the proposed program, or current program, provides adequate employment skills and is in an occupation for which favorable employment opportunities are anticipated.

(4) The veteran requesting aid has not received full reimbursement or payment from any other retraining or education scholarship programs and the veteran does not have other assets or income available to meet retraining or initial training expenses. Applicants requesting aid under this subrule will only be granted the unpaid portion of their tuition statement, and the payment will be made directly to the institution.

b. The veteran shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(3) *Unemployment or underemployment assistance during a period of unemployment or underemployment due to prolonged physical or mental illness resulting from military service or disability resulting from military service.* The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness resulting from military service or disability resulting from military service. The commission may provide subsistence payments of up to $500 per month of unemployment or underemployment to a veteran. No payment may be made under this subrule if the veteran has other assets or income available to meet basic subsistence needs. A period of unemployment implies that it is possible for the veteran to be employed in the future. A rating from the VA of 100 percent due to individual unemployability (IU) rated permanent and total indicates that a veteran is unemployable and will not qualify for assistance under this subrule. The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service-connected and evidence that the veteran is unemployed or underemployed for the period of payments. To qualify as underemployed, the applicant must be currently working at an income that is below 150 percent of federal poverty guidelines due to limitations caused by the applicant's service-connected disability or illness. The maximum amount of aid payable in a consecutive 12-month period under this subrule is $3,000 and a lifetime maximum of $6,000.

14.4(4) *Expenses related to hearing care, dental care, vision care, or prescription drugs.*

a. The commission may provide health care aid to a veteran, to the veteran's spouse or dependents, or to the unremarried spouse of a deceased veteran for dental care, including dentures; vision care, including eyeglass frames and lenses; hearing care, including hearing aids; and prescription drugs that are not covered by the Veterans Affairs medical center.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed $2,500 for dental care, $500 for vision care, $1,500 per ear for hearing care, and $1,500 for prescription drugs.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. Payment under this subrule

will be provided directly to the health care provider. The commission shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of $5,000.

d. Applicants for assistance under this subrule will be required to provide the commission with an unpaid bill for service or an estimated cost of service from the health care provider and documentation of the need for the service. For prescription drugs, the applicant must produce documentation of the need for the prescribed drug and documentation stating whether a generic drug is available or appropriate. The commission payment will not exceed an estimated cost of service by a health care provider.

14.4(5) *Expenses relating to the purchase of durable equipment or services to allow a veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home.*

a. The commission may make reimbursement payments to a veteran or to the unremarried spouse of a deceased veteran for the purchase of durable equipment that allows the veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home or allows them the ability to utilize more of their home.

b. Individuals requesting reimbursement under this subrule will be required to provide verification of the purchase and installation of the equipment and information relating to the need for the equipment. Individuals may also provide a product and installation cost estimate to the commission for approval, with the understanding that the commission will pay no more than the cost estimate to the supplier or installer. Applicants needing durable equipment as a medical necessity should provide information from a physician.

c. Assistance under this subrule cannot duplicate assistance from other entities, and the maximum amount that may be paid may not exceed $2,500.

d. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of $5,000.

14.4(6) *Individual counseling or family counseling programs.*

a. The commission may make mental health, substance abuse, and family counseling available to veterans and their families. Individual family members are eligible for counseling.

b. The assistance may include appropriate counseling and treatment programs for veterans and their families in need of services.

c. Any assistance provided under this subrule shall not duplicate other services readily available to veterans and their families. Veterans who are eligible for VA mental health services must initially visit their nearest VA medical facility for initial consultation and continued psychiatric treatment. Payment under this subrule will be made for additional services for the veteran in a location closer to the veteran's home and at a greater frequency than the VA medical center can accommodate.

d. The commission may provide up to $150 per hour and $75 per half-hour for outpatient counseling visits to providers who will accept as full payment for the counseling services the amount provided. Counseling and substance abuse services provided in a group setting may be paid up to $40 per hour. Counseling and substance abuse services may also be provided in an inpatient setting, subject to the maximum amount eligible under 14.4(6)*"f."*

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period shall not exceed $5,000. Individuals seeking counseling services are eligible for up to $2,500, individuals seeking substance abuse treatment and counseling combined are eligible for up to $3,500, and families seeking counseling services that may also include individual counseling and substance abuse services are eligible for up to $5,000.

f. The commission may not provide counseling under this subrule unless the aid recipient's counseling service provider agrees to accept, as full payment for the counseling services provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. The commission will make payment directly to the entity providing counseling and substance abuse services. The commission shall not pay for counseling under this subrule if the available liquid assets of the veteran are in excess of $5,000.

14.4(7) *Expenses relating to ambulance and emergency room services for veterans.*

a. The commission may provide assistance to veterans for expenses related to ambulance trips, including air ambulance transportation, and emergency room visits for emergency care patients or VA health care patients that cannot indicate to emergency personnel that they are to be presented to a VA medical center.

b. Funding through this subrule shall be paid directly to the entity providing the emergency service or transportation after the commission is provided with an unpaid bill. All efforts should be made to utilize all other methods of payment prior to accessing assistance under this subrule.

c. The maximum amount that may be paid under this subrule may not exceed $5,000.

14.4(8) *Emergency expenses related to vehicle repair, housing repair, or temporary housing assistance.*

a. The commission may provide assistance to a veteran or to the unremarried spouse of a deceased veteran for emergency vehicle repair, emergency housing repair, and temporary housing.

b. Assistance for vehicle repair is limited to expenses that are required for continued use of the vehicle. This assistance will only be granted in cases where the vehicle is needed for travel to and from work-related activities, the applicant is over the age of 65, or substantial hardship will occur if the vehicle is not repaired. Assistance may be provided in situations where the applicant does not have sufficient means to pay an insurance deductible. Assistance may be paid directly to the entity performing the maintenance or the insurance company owed the deductible. In certain circumstances, reimbursement may be made to the veteran or to the unremarried spouse of a deceased veteran in order for the vehicle to be released from the entity providing the service. Assistance will not be provided for damage caused during the commission of a crime, for cosmetic needs, for damage resulting in an auto accident when automobile insurance has not been purchased, or for routine maintenance.

c. Assistance for home repair is limited to repairs that are required to improve the conditions and integrity of the home and are necessary for the safety and security of the residents. Applicants with homeowners insurance may request assistance for payment of a deductible. Assistance may be provided for applicants in disaster situations, home accidents, vandalism, or other situations as determined by the commission. In situations where a home is damaged beyond repair, assistance under this subrule is available to assist the applicant in purchasing a new home.

d. Assistance for transitional housing may be provided to applicants who are displaced from their home during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. Any refunded security deposits paid for under this subrule shall be returned to the Iowa veterans trust fund.

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed $2,500 for vehicle repair, $3,000 for housing repair, and $1,000 for transitional housing.

f. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of $3,000.

14.4(9) *Expenses related to establishing whether a minor child is a dependent of a deceased veteran.*

a. The commission may provide assistance to the family of veterans who are killed while serving on active federal service, for expenses related to paternity or maternity tests or the cost of procuring additional DNA samples from the deceased veteran. This assistance is available to determine whether a child is eligible for United States Department of Veterans Affairs war orphan benefits.

b. Applicants are required to provide the results of the paternity or maternity examinations to the commission upon completion of the tests. Where the deceased veteran is not the parent of the child, the applicant will be required to repay the assistance received as provided in 801—14.6(35A).

c. The maximum amount that may be paid under this subrule is $2,500.

d. The commission may waive the income threshold for this benefit.

14.4(10) *Family support group programs or programs for children of members of the military.*

a. The commission may award grants to unit family readiness/support groups, family support offices, and other such organizations providing support and programs to families and children of family members.

b. The grant shall be only for projects or programs which are not funded from any other source. The commission shall determine if the applicant's proposed project or program will provide the intended

support. In making its determination, the commission shall consider whether the proposed program will provide anticipated favorable results.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a family readiness/support group is $500.

14.4(11) *Honor guard services.*

a. The commission may reimburse veterans organizations for providing military funeral honors as follows:

(1) If a single veterans organization provides basic honors, $25.

(2) If a single veterans organization provides full honors, $50.

(3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, $50. The organizations may request that the commission split the reimbursement.

(4) If two or more veterans organizations participate in providing basic honors, $25. Payment shall be to one veterans organization, as determined by the commission.

b. Notwithstanding paragraph 14.4(11)*"a,"* the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral per day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

c. The maximum amount of aid payable in a calendar year under this subrule to a veterans organization is $1000.

d. Veterans service organizations that are not currently providing honor guard services may apply for a $500, up-front grant, for the use of creating a new honor guard within their organization. Applicants must present the commission with an estimated cost for purchasing uniforms and firearms for providing military honors and an estimated number of members who will be available to perform honor guard services. Organizations should also provide information regarding how they plan to pay for additional expenses that may occur outside of trust fund assistance. Applicants will be eligible for reimbursements under paragraphs 14.4(11)*"a"* to *"c"* 12 months after the receipt of their original $500 grant.

14.4(12) *Matching funds to veterans service organizations to provide for accredited veteran service officers.*

a. The commission may provide matching funds to veterans service organizations for maintaining accredited veteran service officers located at the Des Moines Veterans Affairs Regional Office.

b. Funding for all service organizations combined is available in an amount of up to 20 percent of the interest and earnings on the trust fund balance during the fiscal year or $150,000, whichever is less.

c. Service organizations requesting funding from the trust fund must provide financial data on the level of organizational funding for the staffing and operation of an office in the Des Moines Veterans Affairs Regional Office. Of the available amount outlined in this subrule, assistance will be split evenly among the service organizations eligible for the trust fund assistance. If the service organization's expenditures are less than their share of the grant, the grant amount will be reduced to the amount of their previous fiscal year's expenditures.

d. Service organizations will be required to maintain the same level of expenditures in the year they receive funding as in the previous year. Funding will be recaptured by the treasurer of the state of Iowa if this funding is used to supplant funding from an individual veterans service organization. Trust fund assistance will not be included in future fiscal year maintenance of effort requirements. A report on the previous fiscal year's expenditures will be required to determine the maintenance of effort for the organization.

[**ARC 7823B**, IAB 6/3/09, effective 7/8/09; **ARC 0057C**, IAB 4/4/12, effective 5/9/12; **ARC 2491C**, IAB 4/13/16, effective 5/18/16]

801—14.5(35A) Application procedure. Applications for benefits from the veterans trust fund may be obtained at any county veterans affairs office. The county director of veterans affairs shall date-stamp

the application and submit it to the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824.

14.5(1) *Application process.* A person who wishes to apply shall complete an Application for Veterans Trust Fund form and provide such documentation or other evidence as the commission may require in order to determine the awarding or denial of the benefits available under this chapter.

14.5(2) *Date of application.* The date of the application shall be the date the signed application and written verification are received by the Iowa department of veterans affairs.

14.5(3) *Eligibility determination.*

a. The county director of veterans affairs or members of the county commission shall make a recommendation to the Iowa commission of veterans affairs as to whether to approve or deny the application. The Iowa commission of veterans affairs or a subcommittee appointed by the chair shall approve or deny all applications. Applications submitted to the Iowa commission of veterans affairs will be processed at its quarterly meetings as set forth in 801—paragraph 1.2(2)*"a"* or during a conference call for the purpose of voting on a trust fund expenditure. Applications must be approved by a majority vote of the commission membership or appointed subcommittee. The director of the Iowa department of veterans affairs shall notify an applicant within 15 days of the commission's decision. An explanation of the reasons for rejection of an application will accompany denials.

b. Applications for honor guard reimbursements under subrule 14.4(11) shall be processed solely by the Iowa department of veterans affairs and do not need commission approval for expenditure of trust fund interest balance funds for this purpose.

14.5(4) *Waiting list.* After all veterans trust fund moneys have been obligated, the commission shall approve or deny pending applications based on eligibility. Applicants who meet the eligibility requirements and are approved for payment by the commission shall be placed on a waiting list based on the date of approval and then according to the order in which the completed applications and verification were received by the Iowa commission of veterans affairs. In the event that more than one application is received at one time, the applicant shall be entered on the waiting list on the basis of the applicant's birthday, the oldest applicant being first on the waiting list.

[**ARC 7823B**, IAB 6/3/09, effective 7/8/09]

801—14.6(35A) Recovery of erroneous payments.

14.6(1) *Erroneous payments.* The commission may recover payments made as a grant under this chapter if any of the following apply:

a. The information provided by the applicant is inaccurate.

b. The commission incorrectly calculated the grant amount.

c. The applicant is not entitled to a grant or is entitled to a lower grant amount as a result of a change in circumstances that affects the applicant's eligibility to receive the grant.

14.6(2) *Amount of recovery.* The commission may recover only the portion of the grant to which the applicant would not have been entitled if the correct information had been provided or if the grant had been properly calculated or as a change in circumstances warrants.

14.6(3) *Remedies.* The commission may request repayment of the amount due under subrule 14.6(2). In lieu of a lump-sum payment, the commission may enter into an agreement under which the applicant may repay the amount due within a 12-month period. If the applicant fails to repay the amount due within 30 days of a request for repayment or fails to comply with the terms of a repayment agreement, the commission may offset future grants that the applicant may be entitled to under this chapter until the amount due has been recovered. The commission may also suspend other benefits available to the applicant until the amount due has been recovered.

14.6(4) *Waiver.* The commission may temporarily or permanently waive its authority to recover payments under subrule 14.6(1) or suspend benefits under subrule 14.6(3) if the applicant's household income is totally exempt from Iowa garnishment law.

14.6(5) *Appeal.* Any commission decision under this chapter is subject to appeal under rule 801—14.7(35A).

801—14.7(35A) Appeal rights.

14.7(1) *Subcommittee action.* An applicant may appeal the decision of the subcommittee to the full Iowa commission of veterans affairs. The applicant shall appeal the decision of the subcommittee to the commission in writing within 30 days of receiving the written denial and shall provide relevant new information to substantiate the appeal.

14.7(2) *Final agency action.* The approval or denial of an application by the commission or by the department shall be the final decision of the agency.

14.7(3) *Judicial review.* Judicial review of the commission's or department's final decisions may be sought in accordance with Iowa Code section 17A.19.

[**ARC 7823B**, IAB 6/3/09, effective 7/8/09]

These rules are intended to implement Iowa Code section 35A.13 as amended by 2007 Iowa Acts, House File 817, section 7.

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CHAPTER 130
COMMUNITY RIGHT TO KNOW

[Prior to 9/24/86, Labor, Bureau of[530]]
[Prior to 10/21/98, see 347—Ch 130]

875—130.1(89B) Employer's duty. Upon request, an employer has a duty to inform the public of the presence of hazardous chemicals in the community and the potential health and environmental hazards that the chemicals pose. Requests shall be made during normal office hours of the employer. The employer shall provide the information or reason for refusal within ten days. If the request is from a health professional, the information shall be provided immediately.

875—130.2(89B) Records accessibility.

130.2(1) Records do not need to be accessible to the public if the information is a trade secret or the employer has notified the division in writing that certain information should not be accessible to the public for reasons that the information is not relevant to public health and safety or the release of the information is proven to cause damage to the employer.

130.2(2) Accessible records include the material safety data sheets. The employer shall also provide information concerning the quantity of each hazardous chemical stored or used. Quantity information may include the manner of purchase such as in gallon containers, barrels, tankers, etc. Additionally, the employer shall provide information specifying the quantity as less than 500 pounds, between 500 pounds and 1000 pounds, between 1000 pounds and 5000 pounds, or in excess of 5000 pounds.

130.2(3) An employer is not required to make a copy of a material data sheet if the interested person is given an opportunity to review and make notes regarding the material safety data sheet.

If an employer provides a copy of a material safety data sheet at the request of the interested person, a reasonable fee can be charged for the actual cost of copying.

875—130.3(89B) Application for exemption. To obtain an order from the commissioner pursuant to Iowa Code chapter 89B and rule 130.2(89B), an employer shall make a written application to the commissioner setting forth the specific grounds for the claimed exemption. Upon receipt of an application, the commissioner shall give the applicant notice and opportunity to be heard at a full evidentiary hearing before the commissioner.

875—130.4(89B) Burden of proof and criteria.

130.4(1) *Trade secrets.* The employer-applicant shall have the burden of proof in showing that the information claimed exempted qualifies as a trade secret.

a. At the discretion of the commissioner, official notice may be taken that similar information of the employer-applicant has been deemed a trade secret for the purpose of rule 875—110.6(88,89B) and the commissioner may summarily grant the exemption based on the official notice.

b. The criteria for determining a trade secret under this rule shall be identical to that under rule 875—110.6(88,89B).

130.4(2) *Relevance of public health and safety/damage to employer.* The employer-applicant shall have the burden of proof in showing that the information is not relevant to public health and safety or that the release of the information would damage the employer. Notification in writing by the employer is not, in and of itself, sufficient to allow the employer to obtain the exemption.

875—130.5(89B) Formal ruling. The commissioner shall issue a formal ruling upon application. The ruling shall set forth findings of fact and conclusions of law and grant or deny the application. The ruling shall be the final agency action for purposes of Iowa Code chapter 17A.

875—130.6(89B) Request for information. An interested person may request information from an employer. If the request is denied by the employer, the requesting party may then file an application for information with the division. The application will set forth the information being requested and that information was refused by the employer or that the employer denies access or that the employer

alleged that no records were kept. The applicant shall state the interest in the information requested to be received.

875—130.7(89B) Filing with division. Upon receipt of application for information, the division shall determine if the applicant has a legitimate interest, and if so, the division shall make a written demand upon the employer to provide the requested information to the division. If the employer complies, the division shall forward copies to the interested person. Requests for the information under rule 130.6(89B) will be kept confidential. The division shall not disclose the name of the interested person to any person.

875—130.8(89B) Grounds for complaint against the employer. The commissioner may cite the employer on a formal written complaint on any of the following grounds:

130.8(1) The division has not received a reply within 30 days of the request for information pursuant to rule 130.7(89B); or

130.8(2) The division finds on an IOSH inspection that the employer's records materially distort the information given the public or an emergency response group so as to pose a serious hazard to community health, environment, or emergency response personnel.

875—130.9(89B) Investigation or inspection upon complaint. Within 15 days of determining that there are grounds for a complaint, the commissioner shall either notify the employer in writing of the grounds of the complaint and request information or conduct an unannounced inspection of the employer's workplace at reasonable times and in a reasonable manner. Within 30 days of initiating an investigation or inspection, the division may find that the complaint is invalid and unfounded and shall so inform the interested person and the employer in writing.

875—130.10(89B) Order to comply.

130.10(1) If after conducting an investigation or inspection of the employer's workplace the commissioner finds that the complaint is meritorious, the commissioner shall issue an order to comply to the employer which shall set forth with specificity the employer's noncompliance with the Act or rules. The commissioner shall give the employer a period of 30 days to take remedial steps for compliance. The commissioner may establish a shorter period of time if justification is provided in the order to comply.

130.10(2) An employer may request an administrative hearing on the order to comply at any time prior to the time set forth for compliance in the order to comply.

130.10(3) If the employer has not requested a hearing, the commissioner, after the time set forth for compliance with the order to comply, may reexamine records submitted by the employer or may reinspect the premises. If the employer has not taken the necessary remedial steps required by the order to comply, the commissioner, upon notice and administrative hearing, may issue a decision on the order to comply which shall be deemed a final agency action pursuant to Iowa Code chapter 17A. The rules contained in 875—Chapter 1 are applicable to the hearing.

130.10(4) In the event that the employer fails to comply with a decision on the order to comply, the commissioner may commence an action in the Iowa district court for injunctive and other equitable relief that may be just and equitable.

[**ARC 2488C**, IAB 4/13/16, effective 5/18/16]

875—130.11(30,89B) Relationship to Emergency Planning and Community Right-to-know Act. Rescinded **ARC 2488C**, IAB 4/13/16, effective 5/18/16.

875—130.12(30,89B) Information to county libraries. Rescinded **ARC 2488C**, IAB 4/13/16, effective 5/18/16.

These rules are intended to implement Iowa Code section 30.7 and chapter 89B.

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CHAPTER 140
PUBLIC SAFETY/EMERGENCY RESPONSE RIGHT TO KNOW

[Prior to 9/24/86, Labor, Bureau of[530]]
[Prior to 10/21/98, see 347—Ch 140]

875—140.1(89B) Signs required and adoption by reference. The employer shall post signs which will comply with this rule. An employer need not comply with the sign posting requirements of subrule 140.1(2) if the building, structure, or location within the building or structure does not contain a significant amount of the hazardous chemical as defined in subrule 140.4(1). The National Fire Protection Association's standard system for identifying fire hazards of chemicals based on NFPA standard 704-1980 is adopted by reference.

140.1(1) *Size.* The signs shall be at least 7½ inches on each side. The sign shall have four spaces each at least 3¾ inches on a side. Numbers and symbols within each of the four spaces shall be at least 3 inches in height.

140.1(2) *Location.* If a building or structure has a floor space of 5000 square feet or less, an employer shall post signs on the outside of the building or structure identifying the type of each hazardous chemical contained in the building or structure. If the building has more than 5000 square feet, the employer shall post a sign at the place within the building where each hazardous chemical is permanently stored to identify the type of hazardous chemical. If the hazardous chemical is moved within the building, the employer shall also move the sign or post an additional sign at the location where the hazardous chemical is moved. This subrule applies to significant amounts of a hazardous chemical as defined in subrule 140.4(1).

140.1(3) *Categories.* The signs shall identify hazards of a chemical in terms of three principal categories, namely, "health," "flammability," and "reactivity (instability)"; and indicate the order of severity numerically by five classifications ranging from four, indicating a severe hazard, to zero, indicating no special hazard. This information is to be presented by a spatial system of diagrams with "health" always being on the left; "flammability" at the top; and "reactivity (instability)" on the right. Color backgrounds and numbers are used for the three categories with blue representing "health" hazard, red representing "flammability," and yellow representing "reactivity (instability)." The fourth space shall be at the bottom and used to indicate unusual reactivity or other special hazard warnings in black and white colors.

140.1(4) *Explosives exemption.* Any building or structure, other than an explosives manufacturing building, approved for the storage of explosive materials shall have signs located so as to minimize the possibility that a bullet shot at the sign will hit the magazine.

875—140.2(89B) Employer variance applications. An employer may make application to the commissioner for less stringent sign posting requirements.

140.2(1) The employer shall make written application for a variance.

140.2(2) The employer shall have the burden of proof to show that compliance imposes an undue hardship on the employer and that the less stringent sign posting requirements as proposed by the employer offer substantially the same degree of notice and protection to emergency responders as if Iowa Code section 89B.14 were strictly applied.

140.2(3) Procedure. The employer application which shall be procedurally processed in the same manner as an application for exemption under 875—subrule 130.5(5).

875—140.3(89B) Agreement between an employer and fire department. In instances where the posting of a sign for each hazardous chemical would be ambiguous, repetitive, or where space is limited by the physical characteristics of the structure, or in situations, such as in a building, structure, or location, where a wide variety of materials may be stored having varying degrees of hazards, the identifying symbol shall indicate the most severe degree of hazard in each category except when a high hazard rating would be misleading because of the presence of an insignificant quantity of the material requiring the rating.

The employer may enter into a written agreement with the fire chief of the local fire department which provides for the posting of signs for the most hazardous chemical in each principal category as set forth in subrule 140.1(2). The agreement is subject to the approval of the division pursuant to the procedure for a variance, as specified in rule 140.2(89B). If the variance is approved, the employer shall post in the same location as the required posted signs a sign stating: "Signs not posted for all hazardous chemicals." The sign shall be in block letters at least 3 inches in height.

875—140.4(89B) Significant amounts.

140.4(1) Definition. A "significant amount" means the amount of a hazardous chemical(s) meeting any of the following criteria:

a. Any amount of a hazardous chemical which is classified as follows:

(1) A U.S. Department of Transportation Class A or Division 1.1 or 1.2 explosive;

(2) A U.S. Department of Transportation Class B or Division 1.3 explosive;

(3) A U.S. Department of Transportation Class A poison, a Division 2.3 poison gas or a Division 6.1 package group I inhalation hazard poison;

(4) Reserved;

(5) A U.S. Department of Transportation flammable solid or Division 4.3 material with a "dangerous when wet" warning;

(6) A U.S. Department of Transportation yellow III label radioactive material;

(7) An NFPA 704-1980 health rating of greater than or equal to 3;

(8) An NFPA 704-1980 flammability rating of 4; or

(9) An NFPA 704-1980 reactivity rating of 4.

b. The aggregate amount of hazardous chemicals stored, placed, or used at the building, structure, or location is greater than or equal to 25 gallons of liquid or 250 pounds of nonliquid where the numerical rating of the hazardous chemical based on the NFPA 704-1980 system meeting any of the following criteria:

(1) Health rating of greater than or equal to 2;

(2) Flammability rating greater than or equal to 3; or

(3) Reactivity rating of greater than or equal to 2.

If the hazardous chemical in both a liquid and nonliquid state, the aggregate amount measurement shall be made considering the combined poundage.

140.4(2) The requirements of this rule shall be superseded by other state or federal laws where those regulations are more restrictive.

875—140.5(89B) Information submitted to local fire department. The employer shall submit to the local fire department a list of hazardous chemicals which are consistently generated by, used by, stored at, or transported from the employer's facility. The employer shall submit updated information as it becomes available to the employer. The employer shall submit information in sufficient specificity as defined in rule 875—110.2(88,89B). This subrule shall not apply to hazardous chemicals which are not in significant amounts. The employer shall send the information by certified mail.

875—140.6(89B) Recommended communications. It is recommended that local fire departments and employers meet to collaborate on the types and amounts of hazardous chemicals as well as any unusual hazards which may be encountered by emergency response personnel.

875—140.7(89B) Procedure for noncompliance. If an employer fails to comply with the requirements of this chapter, the fire chief in the jurisdiction of the employer may file a written complaint with the commissioner.

875—140.8(89B) Notice of noncompliance. The commissioner may rely on the information provided by the fire chief and immediately issue a notice of noncompliance to the employer.

140.8(1) Opportunity for hearing. The notice of noncompliance shall be sent by certified mail and shall set forth that the employer may have an opportunity to be heard, upon demand by the employer.

In the event the employer demands a hearing, the commissioner may conduct an investigation or an inspection pursuant to 875—Chapter 3.

140.8(2) In the event the employer does not demand a hearing within 30 days of the receipt of notice of noncompliance, the commissioner shall, without further notice, issue an order for compliance which shall be a final agency action pursuant to Iowa Code chapter 17A.

140.8(3) In the event the issue of noncompliance comes for hearing before the commissioner, the commissioner may, at the conclusion of the hearing, issue an order for compliance which shall be a final agency action pursuant to Iowa Code chapter 17A or dismiss the complaint. Any hearing shall be conducted pursuant to the rules contained in 875—Chapter 1.

[**ARC 2488C**, IAB 4/13/16, effective 5/18/16]

875—140.9(30,89B) Relationship to Emergency Planning and Community Right-to-know Act. Rescinded **ARC 2488C**, IAB 4/13/16, effective 5/18/16.

These rules are intended to implement Iowa Code section 30.7 and chapter 89B.

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[1] Two ARCs

CHAPTER 160
EMPLOYER REQUIREMENTS RELATING TO NON-ENGLISH SPEAKING EMPLOYEES

[Prior to 10/21/98, see 347—Ch 160]

875—160.1(91E) Purpose and scope. The rules in this chapter are intended to implement and clarify the division of labor's responsibilities under Iowa Code chapter 91E. These rules apply to employees employed on an hourly basis. These rules apply to employers whose total employment of employees paid on an hourly basis in this state exceeds 100.

[**ARC 2489C**, IAB 4/13/16, effective 5/18/16]

875—160.2(91E) Definitions. The definitions in Iowa Code section 91E.1 are adopted with the following clarifications or additions:

"Act" means the non-English speaking employee services Act, Iowa Code chapter 91E.

"Applicant" means an employer, employee, or non-English speaking employee as those terms are defined in the Act.

"Business day" means those days an office is open and staffed with the person(s) capable of processing employees' requests for transportation provided in Iowa Code section 91E.3(2).

"Commissioner" means the commissioner of the division of labor services of the department of workforce development or the commissioner's designee.

"Primary" means of first rank, importance, or value.

"Work site" means a single physical location where business is conducted or where services or industrial operations are performed, for example: a factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, or central administrative office.

875—160.3(91E) Knowledge of English. The Act and these rules apply to employees who do not speak, read, write, or understand English well enough to understand the terms, conditions, and daily responsibilities of employment. An employee who can understand the following in English is not covered by these rules:

160.3(1) The hours of work.

160.3(2) The hourly wage.

160.3(3) All mandatory and elective benefits.

160.3(4) The job duties.

160.3(5) The safety and health risks of the job and appropriate methods of protection.

160.3(6) Information and training on hazardous chemicals in the employee's work area.

160.3(7) Safety signs and symbols that warn of potential dangers and hazards at the work site.

160.3(8) The purpose of forms used by the employer including:

a. Orientation,

b. Insurance,

c. Accidents at the work site, and

d. Other forms the employee is required to complete or answer.

160.3(9) The employer's requirement to provide an interpreter if more than 10 percent of the employer's employees speak the same non-English language.

160.3(10) An ability to effectively communicate with a nurse or other medical personnel at the work site.

[**ARC 2489C**, IAB 4/13/16, effective 5/18/16]

875—160.4(91E) Interpreters.

160.4(1) *Interpreter available.* An interpreter shall be made available at a work site where more than 10 percent of the employees speak the same non-English language. At least one interpreter shall be available at each work site for each entire shift on which the non-English speaking employees are employed.

160.4(2) *Interpreters provided.* An interpreter shall be provided to all non-English speaking employees in order to comply with subrules 160.3(1) to 160.3(10).

160.4(3) *Spanish-speaking interpreters.* If a Spanish-speaking interpreter is needed, the employer shall select an interpreter from the list of interpreters developed by the commissioner.

160.4(4) *Interpreters for languages other than Spanish.* If an interpreter is needed for a language other than Spanish, the employer shall select an interpreter capable of interpreting information needed relative to the items listed in subrules 160.3(1) to 160.3(10).
[**ARC 2489C**, IAB 4/13/16, effective 5/18/16]

875—160.5(91E) Community services referral agent.

160.5(1) *Referral agent available.* A referral agent shall be employed by the employer when the employer has more than 10 percent of its employees who speak the same non-English language. The employer shall provide to employees at each work site the name of the person who is designated as having the primary responsibility as the referral agent. The information shall be provided in the language of the non-English speaking employees.

160.5(2) *Referral agent's responsibilities.* The primary responsibility of the person employed as the employer's referral agent shall be to develop and maintain a list of contact persons and agencies, telephone numbers, and addresses of the community services provided in the work site's community. The referral agent shall assist non-English speaking employees in working with and through those services.

875—160.6(91E) Active recruitment of non-English speaking employees. Active recruitment includes, but is not limited to, the following:

160.6(1) Placement of employment opportunity advertising or notices in non-English publications or non-English advertising in English language publications located, or within a general circulation located in another state more than 500 miles from the place of employment;

160.6(2) Placement of employment opportunity advertising or notices through non-English radio, television, signs, posters or any other form of media located in another state more than 500 miles from the place of employment;

160.6(3) The use of any non-English language by an employer, or representative of the employer, at any point in the recruitment or hiring process; or

160.6(4) The solicitation of present or past non-English speaking employees for the purpose of recruitment or hiring of other non-English speaking employees residing in other states more than 500 miles from the work site.

875—160.7(91E) Employee's return to location of recruitment.

160.7(1) This rule applies to employees as defined in the Act who:

a. Are English and non-English speaking,

b. Were recruited from a location more than 500 miles from the work site,

c. Resign from employment within four calendar weeks of the date of initial employment, and

d. Are employed by an employer as defined in the Act.

160.7(2) If an employee requests to return to the place of recruitment as provided in this rule, the employer shall provide public transportation at no cost to the employee. If means of public transportation is not available to the place of recruitment, the employer shall provide the transportation to the closest location to the place of recruitment. This location shall be made known to the recruit prior to hiring. If an employee requests to travel to a place other than that of recruitment, the employer is not required to provide transportation.

160.7(3) The 500-mile distance between the recruitment and work site locations shall be determined by use of official state maps in effect at the time of the recruitment.
[**ARC 2489C**, IAB 4/13/16, effective 5/18/16]

875—160.8(91E) Inspections. This rule pertains to enforcement of the Act.

160.8(1) Inspections shall take place at the times and places directed by the commissioner.

160.8(2) Inspections may be conducted without prior notice.

160.8(3) The commissioner may interview persons at the work site and utilize other reasonable inspection techniques including but not limited to correspondence, telephone conversation, review of written materials, and physical inspection of the work site.

160.8(4) Unnecessary disruptions to the operations at the work site will be avoided.

160.8(5) In the event the commissioner is not permitted to fully conduct an inspection, an administrative warrant may be sought.

[**ARC 2489C**, IAB 4/13/16, effective 5/18/16]

875—160.9(91E) Exemptions. This rule contains procedures for the application for and granting of exemptions from the requirements of the Act or the rules in this chapter. These rules shall be construed to secure a prompt and just conclusion to a proceeding subject to these rules.

160.9(1) An exemption may be granted by the commissioner where reasonable.

160.9(2) An applicant desiring an exemption shall file a written application with the commissioner which shall include:

a. The name, address and telephone number of the applicant;

b. The address or location of the work site affected;

c. A description of the operation or type of work site;

d. A listing of the section of the Act or rules to which the exemption would apply;

e. A representation of the impact of compliance on the part of the applicant;

f. A representation of why the exemption would be reasonable;

g. If the applicant is an employer, a description of how employees and non-English speaking employees have been informed of the application and their rights to petition the commissioner for a hearing;

h. If the applicant is an employee or non-English speaking employee, a description of how the employer has been informed of the application and the employer's rights to petition the commissioner for a hearing;

i. A request for a hearing, if one is desired; and

j. Any other information the commissioner may request.

160.9(3) At the time the application is received, the commissioner shall promptly provide the applicant with a notice of receipt of application which shall be posted where notices are customarily posted for employees. If the applicant is an employee or non-English speaking employee, the employer shall post the notice when provided to the employer.

160.9(4) If the applicant is an employer, any affected employee or affected non-English speaking employee may request a hearing. If the applicant is an employee or non-English speaking employee, the affected employer may request a hearing. Any request for a hearing on the application shall be done by notifying the commissioner within 14 calendar days of posting of the notice provided under subrule 160.9(3).

160.9(5) Hearing procedures are set forth in 875—Chapter 1.

[**ARC 2489C**, IAB 4/13/16, effective 5/18/16]

875—160.10(91E) Enforcement and penalties.

160.10(1) If the commissioner finds a violation subject to a civil penalty, the commissioner shall issue a notice of violation to the employer and propose a civil penalty which shall be sent to the employer by certified mail. The employer shall have 14 calendar days from receipt of the notice of violation or proposed civil penalty to inform the commissioner by mail of the intent to contest the notification or proposed penalty. After receipt of the employer's notification, the commissioner shall afford the employer the opportunity for a hearing. The hearing shall be conducted pursuant to the rules in 875—Chapter 1.

160.10(2) If the commissioner finds any violations subject to a criminal penalty, the commissioner shall notify the county attorney for the county in which the violation occurred or the employer's work

site is located in the county where the employee or non-English speaking employee was employed or to be employed.

[**ARC 2489C**, IAB 4/13/16, effective 5/18/16]

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